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ABSTRACT

This report contains findings of a study conducted by the Little Hoover Commission, which investigated ways to support and expand opportunities for charter schools in California. Over 100 charter schools were in operation in California as of March 1996. Data were based on visits to 26 charter schools in the state. The report concludes that: (1) the statutory cap on charter-school expansion limits creative energy and student access; (2) the lines of authority between charter schools, districts, and the California State Department of Education are ambiguous; (3) the charter-school formation process limits flexibility and reduces opportunities for innovation; and (4) many of the systemic funding problems that adversely affect all schools affect the ability of charter schools to be innovative and flexible. Recommendations are made to eliminate the 100-school cap; fund charter schools directly from the state; recognize charter schools as separate legal governmental entities; create alternative sponsors and alternative petition mechanisms; and clarify the funding base for charter schools. Thirteen sidebars are included. Appendices contain lists of members of the Little Hoover Commission advisory committee, of witnesses appearing at hearings, and of schools visited, and the text of California charter-school law. (Contains 97 endnotes.) (LMI)

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March 7, 1996

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and Members of the Senate

The Honorable Rob Hurtt
Senate Republican Leader

The Honorable Curt Pringle
Speaker of the Assembly
and Members of the Assembly

The Honorable Richard Katz
Assembly Democrat Leader

Dear Governor and Members of the Legislature:

For California to be competitive in the nation and the world, it must have educated citizens who are equipped to be productive workers and supportive players in a shared community life. California's schools, which face many challenges, are not meeting these goals. Among the many efforts designed to address the shortcomings of today's education system is the charter school movement.

Charter schools are grounded in private-sector concepts such as competition-driven improvement, Total Quality Management, employee empowerment and customer focus. But they remain very much a public-sector creature, with in-bred requirements of accountability and broad-based equity. Simple in theory, complex in practice, charter schools promise academic results in return for freedom from bureaucracy.

With the 100 charter school slots authorized in California's law already filled, tensions are growing. Critics, some with vested interests in the existing system, fear that charter schools will prove to be a fruitless pipe dream. Proponents, some who favor the complete dismantling of the existing system, are pushing for an expanded opportunity to spread creativity and innovation. With the law's mandated evaluation report still three years in the future, the Little Hoover Commission decided to examine the record of charter schools in California.

The Commission visited 26 charter schools, more than one-fourth of the operational schools in California. The schools included the first, the largest and a mix of urban and rural sites. Overall, the Commission saw evidence of the explosion of energy and the strong community links that occur when teachers, parents and others are given the opportunity to implement their own programs and procedures. Central to the process are committed individuals with leadership ability. And a critical key to success is their skill at involving all stakeholders -- parents, community leaders, students, teachers, other employees -- in a shared vision of what education should look like and accomplish.

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On its own, the charter movement neither creates such individuals nor gives them the training that would enhance a charter school's chance for success. But the charter movement does provide a platform and opportunity for innovative people who are struggling within the constraints of today's education system. And successful charter schools may well set a pattern that will demonstrate the types of skills and support that need to be provided to all educators.

Based on its site visits and extensive research, the Commission found that, while the academic results are not yet clear, charter schools can be judged at least a partial success on the basis of a variety of criteria. These include:

- ***Test scores and other pupil assessment tools.*** Many schools have documented single-year improvements and are making progress on alternative assessment tools, such as portfolios and performance requirements. Without a statewide test and performance benchmarks, however, it is difficult to hold charter schools to a standard that is non-existent for other schools.

- ***Parental satisfaction.*** The student population in charter schools is there by choice, meaning that parental satisfaction can be measured to a large degree by how many students continue to attend the school. Almost all charter schools have waiting lists for admission, and most have a high rate of retention year to year.

- ***Fiscal prudence and economical value.*** Many charter schools have found ways to cut corners and trim costs in order to redirect resources into the classroom. The examples range from saving a few hundred dollars by purchasing services from outside the district to saving thousands of dollars by streamlining cafeteria processes and using creative staffing.

- ***Academic innovation.*** Not only are charter schools different from their district non-charter counterparts, but very few resemble each other. Academic approaches range from Montessori and Waldorf to humanistic and open. Some schools share quarters with mainstream schools, while others inhabit industrial or business complexes. And some have no walls, relying on computer modems.

- ***Enhanced opportunities for teachers.*** In many charter schools, teachers drive policy, shaping curriculum, networking for continuity and controlling working conditions.

- ***Increased focus on low-achieving students.*** Large urban charter schools and many independent study charter schools focus on low-achieving students, bringing them programs designed to meet their needs.

- ***Avoidance of discrimination.*** Despite fears that charter schools would be formed mostly in white, affluent areas, charter schools have demonstrated an ethnic balance that reflects that found in statewide schools. Some of the largest cater to students who are socio-economically disadvantaged.

- ***Consequences for performance.*** A performance-based system that did not follow through with consequences would soon be too weak to stop abuses and poor results. In California's charter system, the price of failure is revocation -- and in one instance

when a charter school did not live up to its commitments, it was shut down by the sponsoring district.

While the charter schools in operation have been successful, many have had a difficult struggle and others are finding their options limited. Many of the problems arise from unclear lines of authority, bureaucratic indifference to legislative intent and unintended consequences of the charter law's provisions. To address these concerns and expand opportunities for the creative innovation that is the hallmark of charter schools, the Little Hoover Commission believes the State should take several steps. These include:

- Eliminating the 100-school cap as a means of encouraging leadership at the local level by principals, teachers, parents and community leaders, as well as all state and local government agencies, to improve the education of our children.
- Funding charter schools directly from the State.
- Recognizing charter schools as separate legal governmental entities.
- Creating alternative sponsors and alternative petition mechanisms.
- Clarifying the funding base for charter schools.

Making these modifications in the charter law will increase the ability of charter schools to leverage reform in a system that, like most bureaucracies, resists change. And change is the major promise of charter schools. School by school, the educational system is being asked to shift from accountability for following rules to accountability for results. School by school, teachers and administrators are being given the opportunity to put their concepts for achieving academic excellence into place. And school by school, parents are free to make a decision about whether the educational approach offered by a specific school suits their child and meets their expectations.

Charter schools have proven to be hardy creatures. They are thriving despite a lack of extra funding to act as an incentive. They are spreading despite the difficulty of creating a charter and winning community consensus. And they are succeeding when many entrenched interests are rooting for them to fail. But without support and room to grow, charter schools may remain a limited opportunity for a restricted number of students. The Little Hoover Commission believes it is important for the State to provide that support and continue the process of moving from a rules-based structure to an outcome-based system, with charter schools as one option.

Sincerely,

Richard R. Terzian
Chairman

The Charter Movement:

Education Reform
School by School

March 1996

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Executive Summary

Executive Summary

The performance of schools in California and across the nation is widely recognized as falling short. Students compare poorly with their counterparts in other nations; businesses complain that recent graduates cannot do entry level jobs and lack a good work ethic. For the past couple of decades, multiple efforts at reforming the education system have been focused on improving the preparation of students to be productive citizens.

Some of these reforms have been aimed at improving the existing system by making the components work better. Other reforms have touted the benefit of eliminating the present system and moving to a privatized system that relies on market forces to produce excellence. But a growing movement combines elements of both: Charter schools embrace private-sector concepts such as competition and customer-focus while retaining the accountability and equity that are the foundation of public sector activities.

The charter school movement is seen not just as an experiment that will identify the best educational methods but also as a powerful tool to achieve change within the education system. The charter schools act as a wedge for both external and internal forces -- from the outside, student and parent demand will grow for the kind of choice charter schools provide and from the inside, other schools will fight for the flexibility they see charter schools enjoying.

California is not the first state to enact a charter law, but with more than 100 schools it outdistances other states in sheer volume. Under the charter system in California, groups of parents, teachers, community leaders or other interests who want to form a school may submit a petition, signed by teachers, to the district school board for approval. Once approved, the new school and the district have a contractual relationship, as spelled out in a charter. The school outlines an educational approach and pledges to produce specified academic results. In return, the school is free of almost all laws, regulations and policies that affect other schools. The district monitors performance, holding the right to revoke the charter if the school fails to live up to expectations.

In the three years since the charter law was enacted, no definitive academic evaluation has been performed. But following a six-month study and on-site inspection of 26 schools, the Little Hoover Commission has reached the following conclusions and recommendations:

Finding 1: The success of charter schools, indicated by a variety of factors, makes the statutory cap on their expansion an unwarranted limitation on creative energy and student access.

Charter schools have been operational too short a time to track academic achievement in a meaningful fashion. But by many measures, as documented by the Little Hoover Commission and other researchers, these schools are successful.

When the charter school law was enacted, an arbitrary cap was put in place to counter fears that experimental schools would proliferate uncontrollably, potentially wasting money and shortchanging children academically before results could be assessed and corrective action taken. However, districts have moved slowly and with deliberation to approve petitions, and the ceiling was not reached until three full years after the law became effective.

During those three years, many charter schools built a record of innovation and accomplishment. Although the record is not without blemishes, experience indicates that the charter law provides school districts with sufficient authority to address problems.

At this point, the cap is preventing districts from moving forward confidently with additional charter schools despite local support and student demand. As a result, the opportunity for constraint-free

experimentation embodied in the charter law has been short-circuited and the potential benefits for students have been limited.

> ***Recommendation 1-1: The Governor and the Legislature should modify the charter school law to eliminate the cap as a means of encouraging local leadership to improve education.***

The law's author put the case for eliminating the cap succinctly in a recent newspaper article:

> *At a time when enthusiasm for public schools is low, it is irrational to block the growth of a zero-cost program that is reinvigorating schools up and down the state.... California earned a reputation as an innovator by being willing to take chances. We took a chance on charter schools, and evidence is pouring in that they work. With the 1996 legislative session under way, it is time to launch the next stage in the charter schools odyssey.*

Local leadership and community involvement can be significant factors in the improvement of education. The charter school mechanism opens the opportunity for both -- and, therefore, should not be blocked by an arbitrary ceiling.

> ***Recommendation 1-2: The Governor and the Legislature should fund and set parameters for the required 1999 assessment of charter schools by framing the issues, describing the array of factors to be examined and naming the types of experts who should be involved in the assessment process.***

The present requirement for the Department of Education to assess "the educational effectiveness" of the charter school approach is a vague direction that may not yield a product that will satisfy policy makers' concerns. A more helpful approach would be to list factors to be examined, including change in assessment rankings, degree of parental satisfaction, demonstration of economical value, level of innovation, evidence of increased educational opportunities for teachers, increased focus on low-achieving students, diversity and effective oversight by districts.

The law should also specify experts to be involved in the study, including representatives of teachers, administrators, parents, active charter schools, academic institutions, the State Superintendent of Public Instruction and the State Board of Education.

Recommendation 1-C: The Governor and the Legislature should require sponsoring districts to consider the quality of charter provisions as a criterion for approval and monitor annual reports of charter school progress in goal achievement.

Because charter schools are supposed to provide documented performance of goals in return for their unlimited flexibility, it is critical that charters contain clear performance goals and assessment plans. Present charters, however, are often vague. In addition, school districts should monitor charter school performance closely enough to provide helpful guidance, if needed, well before charters are brought up for renewal or revocation.

Recommendation 1-D: The Governor and the Legislature should clarify the charter law and the new statewide testing law to ensure that charter schools participate in statewide testing, benchmarking and/or achievement standards systems.

The present uncertainty about whether charter schools are included in the new testing law clouds the schools' ability to share in test funding and may provide an opportunity for schools that dislike normative testing to avoid the process. While many assessment tools are flawed and no single indicator should be used to judge educational performance, it is important for charter schools to participate along with other schools in whatever statewide system is created.

Finding 2: The lines of authority between charter schools, sponsoring districts and the State Department of Education are not well defined, causing conflicts and confusion.

In its purest form, the charter concept rests on the principle that charter schools are independent from both local and state bureaucracies, except for oversight regarding results. While California's law speaks to that degree of independence – stating that charter schools should be treated as separate entities and should receive funding directly from the State – the reality is far different. Both the State Department of Education and sponsoring school districts have taken actions that constrain the ability of charter schools to operate freely.

The State Department of Education has 1) declined to fund charter schools directly; 2) created confusion by treating similar schools

differently; 3) interpreted the law in ways not intended by the Legislature; and 4) in the past, provided only lukewarm support for those seeking technical assistance.

Some school districts have 1) used the charter mechanism to generate extra revenue for the district; 2) held charters hostage to continuing controls as the *quid pro quo* for charter approval; and 3) allowed unions to dictate charter approval terms and conditions.

As a result, many charter schools have only limited freedom to experiment and their operators devote an enormous amount of energy to battling district and state bureaucracies over rule-based controls. This is contrary to charter law intent, which describes a goal of providing a mechanism to move from rule-based to performance-based accountability.

Recommendation 2-A: The State Department of Education should comply immediately with the wording and intent of the current law by funding charter schools directly.

There is little convincing evidence that the department is unable to apportion funds directly to the 100 charter schools since it is already computing the figures. The Legislature may wish to remind the department of this priority through budget control language. While the added workload of computations for an additional 100 schools seems small compared to the 1,100 districts and county offices the department is already handling, the Legislature may also wish to consider earmarking additional resources for this function.

Recommendation 2-B: The Governor and the Legislature should modify the "things of value" statute to allow independent study programs to provide a range of learning opportunities.

Some schools have been told that they may not offer smaller class sizes, educational supplies, special programs or other options because similar benefits are not available to all classroom students in a district. Such a restriction is antithetical to both the charter school concept and the purpose behind independent study in any school. The law should be modified in such a way as to preclude cash or material "bounties" intended to entice students into a program but to allow specialized educational materials to be provided.

Recommendation 2-C: The Governor and the Legislature should authorize a study of the use of the independent study modality by school districts.

The concerns raised by some charter critics about independent study charter schools are issues that arise in non-charter programs as well. These concerns include the potential for a district to use independent study as a revenue generator because of the low cost; the lack of clear standards for academic achievement and effort; and the potential for using the mechanism to underwrite the teaching of religion at home.

While not a focus of the Little Hoover Commission's charter school study, many experts told the Commission independent study programs are growing rapidly and with little control or monitoring of results. Some have suggested that the independent study option should be structured differently so that districts retain the flexibility to meet the needs of students but are not given excessive fiscal incentives to do so through the independent study method.

A baseline study to identify the status of independent study programs throughout the state would be a good beginning to examining alternatives and addressing concerns.

Recommendation 2-D: The Governor and the Legislature should clarify that charter schools operated by county offices of education have the same freedoms and responsibilities granted to other charter schools.

Because funding sources are different for county boards of education, the Department of Education has ruled that charters operated by counties must continue to comply with restrictions regarding instructional minutes, certificated teachers and calendar days. But there is little sense in having a second-class category of charter schools.

Recommendation 2-E: The Governor and the Legislature should authorize and fund a charter school technical assistance/advocacy unit.

The formation of some charter schools has been needlessly more difficult as they have struggled to reinvent the wheel with little knowledgeable assistance. A unit that would provide information, networking and advocacy could be established in the Governor's child development office or under the direct oversight of the State Board of Education at the Department of Education.

Recommendation 2-F: The Governor and the Legislature should amend the charter law to give charter schools status as separate legal governmental entities, with full liability for their actions and full ability to participate in state programs available to

districts. Sponsoring districts should be released from liability for actions taken by charter schools.

With freedom should come responsibility. It makes little sense to place charter schools firmly under the direct control of districts and expect them to act differently from regular schools. But it makes even less sense to tell sponsoring districts that they have no authority over charter schools without relieving them of liability. Charter schools would still be able to negotiate with districts for services, including the ability to buy into the district's liability insurance system or to find separate liability insurance on the open market or in pools with other educational institutions.

Recommendation 2-G: The Governor and the Legislature should enact legislation to clarify that labor issues will be settled in the charter negotiation process between districts and charter schools, separately from the districts' normal bargaining processes.

The charter law should specifically state that the Education Employment Relations Act is waived for charter schools. In addition, to ensure that labor arrangements are made between the charter school and the district without interference, conditions under which charters may be approved should be prohibited from being addressed in collective bargaining agreements between the district and its non-charter employees. Finally, districts should be prohibited from unilaterally imposing terms and conditions in existing collective bargaining agreements on the charter school.

Finding 3: The processes for establishing and operating charter schools have created unintended consequences that limit flexibility and reduce opportunities for innovation.

The charter law describes a set procedure for obtaining approval of a charter and appealing any rejection by a school district. On other issues -- such as dispute resolution mechanisms and the applicability of the State's earthquake safety provisions -- the law is silent. On still others, the law's ambiguity has caused conflicts. In each of these areas, charter proponents argue that modifying the original law would allow a fuller exploration of educational opportunities under outcome-based accountability.

Recommendation 3-A: The Governor and the Legislature should create -- in addition to the 10 percent/50 percent teacher-

signature mechanism – alternative requirements that would allow other groups to petition districts for charter approval.

Alternatives could involve requiring a set number of parent signatures or proof of support through community surveys or by academic evaluation. While leaving intact a mechanism that ensures a large role for teachers in creating charter schools, creating other processes would allow other stakeholders, such as parents, community interests or district boards themselves, to be the major driving force behind educational alternatives. District boards would still be required to weigh the level of community and employee support before approving a charter, and a board could reject any petition that failed to attract teacher support.

Recommendation 3-B: The Governor and the Legislature should enact legislation authorizing the State Board of Education, county offices of education and higher education institutions to sponsor charter schools.

Giving charter proponents alternate sources for approval will put all participants in the bargaining process that occurs between sponsor and petitioner on a level playing field and encourage greater reform efforts spurred by the competition to win or retain students. It also will provide a valuable link between institutions that train teachers, administrators and other child development specialists and the schools that professionals eventually operate in.

Recommendation 3-C: The Governor and the Legislature should strengthen the charter petition appeals process to make it a more effective forum for balancing local concerns.

Rather than requiring a panel to review the district's decision and send improperly rejected petitions back for second consideration, the process could be revamped so that rejected petitioners can make their case for approval directly to the county board of education. In the alternative, if the panel process is retained, it could be strengthened by adding outside interests, such as community leaders, parents and private sector representatives. In addition, the district and the appeal panel could be required to specify which of the 13 elements were unsatisfactory and steps that charter proponents could take to make their proposal acceptable.

Recommendation 3-D: The Governor and the Legislature should clarify the charter law to exempt sponsoring districts from Field Act liability for charter operations.

School boards should not be held at risk for a law that charter schools are allowed to ignore. Under the charter law, their obligation should be met by ensuring that charter drafters have adequately addressed concerns under the charter health-and-safety element.

Recommendation 3-E: The Governor and the Legislature should prohibit sponsoring districts from charging charter schools rent if the facilities to be used are not already generating revenue for the district.

To continue the revenue neutrality of the charter school concept and to ensure that charter school budgets are not deprived of funds that should be directed into the classroom, districts should not be allowed to require charter schools to shoulder a burden not shared by other schools. The State's per-pupil funding mechanism has never been intended to cover capital outlay costs, which instead are met by bonds. The law could include exceptions to take care of districts that incur additional facility costs because of the charter school's occupancy of needed quarters. And it should allow the district to impose the same costs allocated to all schools in the district for retirement of bonds, as long as the charter school is also apportioned a share of all district funding, such as developer fees, that contribute to covering facility costs.

Recommendation 3-F: The Governor and the Legislature should require charters to have an additional element defining a dispute resolution process.

Because charter schools and their sponsoring districts are closely linked but have differing interests, disputes arise. Addressing how those will be handled ahead of time should make problems easier to resolve.

Recommendation 3-G: The Governor and the Legislature should define the charter renewal process in law.

Before rejecting a request for charter renewal, districts should provide written reasons, including specifying which, if any, of the 13 elements in the charter are inadequate or need to be revamped. They also should consider the level of community support for the continuation of the school. In addition, the legislation could restrict the reasons for non-renewal to those applying to revocations: committing a material violation of the charter conditions, failing to pursue the promised pupil outcomes, failing to use good fiscal management and violating any provision of law.

Recommendation 3-H: The Governor and the Legislature should require charter renewal, revocation and appeals processes to be conducted according to open meeting laws.

The public has a legitimate interest in how decisions regarding charter schools are made. Any actions to renew, revoke or consider an appeal should take place in the public arena.

Finding 4: Many of the systemic funding problems that affect all schools adversely affect the ability of charter schools to be innovative and flexible.

California's funding mechanism for education is a crazy-quilt of apportionments and entitlements that is so convoluted that only a handful of people in the state understand its complexities. The situation becomes more tangled when it pertains to charter schools, which by law are not subject to restrictions and requirements -- but are affected by formulas that determine how much their share is. The resulting specific problems that affect charter schools include:

- ***Funding uncertainty,*** which makes planning an educational program and budgeting for it very difficult.

- ***Restrictive attendance accounting,*** which constrains the choices charter schools can make when designing an academic calendar.

- ***Cash flow shortages,*** particularly if a start-up school -- with no prior year's enrollment -- is involved, or a charter school enjoys rapid growth.

Recommendation 4-A: The Governor and the Legislature should enact legislation that clearly establishes the funding base for charter schools as a proportionate amount of all district funding.

Charter schools should not be expected to be innovative, creative and academically successful with less funding than normal schools. But they should also not be constrained by a system that pigeon-holes funding and how it may be applied for and spent. One way of avoiding these problems is to give charter schools a proportionate amount of all funding that comes into the district.

Under this system, the apportionment assigned to a charter school would be an amount of funding that is equal to the district's entire

funding, regardless of source, divided by all the total number of students in the district, and then multiplied by the number of students at the charter school. (Because of the federal restrictions on some funds, this would require the State to seek federal waivers.)

In addition, to avoid the problem of requiring districts to submit data that includes charter schools when charter schools are not required to collect such data, the law should allow districts to arrive at non-charter numbers and then factor in a proportionate additional amount to account approximately for charter students.

> ***Recommendation 4-B: The Governor and the Legislature should set the funding for charter schools with non-district sponsors at the state average funding for the appropriate school type.***

If the State chooses to create alternate sponsors, such as state universities and colleges, a separate funding scheme will have to be enacted to cover costs. One alternative is to grant charter schools with non-district sponsors the average state funding for elementary or high schools, depending on the scope of the school. In addition, these schools could be granted an average amount derived from all non-federal categoricals.

> ***Recommendation 4-C: The Governor and the Legislature should redefine the relationship between funding and students for charter schools.***

While the average daily attendance definition for charter schools moves away from many of the restrictions in the normal attendance system, it does not go far enough. The State has an opportunity to use charter schools as a pilot for changes many policy makers have long recognized as necessary in the way student presence is counted. One way of doing this is to require charter schools to submit "active monthly enrollment" figures, which could be defined as the number of different students engaged in educational activities at a school over the course of a month.

> ***Recommendation 4-D: The Governor and the Legislature should create a revolving loan fund for first-year and rapidly expanding charter schools.***

First-year and rapidly growing charter schools should have a resource for covering payrolls, daily expenses and other operating costs until their funding starts to flow from the state. A fund that covers those costs and then recoups the loan from future apportionments would ease cash flow problems these schools suffer from.

Introduction

Introduction

Ask Californians what they are concerned about and crime or the economy is often the answer. But ask Californians with children or those who care about obtaining a productive work force -- and the answer invariably turns to education. Indeed, many believe that the quality of education that the State's young citizens receive has a direct bearing on issues such as crime and the economy. And despite recent contrarian attempts to demonstrate that the education community is doing well considering the many challenges it faces, there is widespread consensus that California's kindergarten through 12th grade (K-12) schools do not do a good job of preparing children for a bright future.

Despite years of intense focus, agonizing debate and repeated promises of reform, California's schools look, act and are funded pretty much as they have been for decades -- except they are worse for the wear and crammed to over-capacity. In essence, the K-12 education system counts noses, multiplies the number by complicated factors that differ from school district to school district, sends a check based on the resulting figure and then monitors how the money is spent. In this system, the end product is almost an afterthought. No one tabulates, evaluates or ranks results against a statewide standard of desirable achievement. At no point is outcome linked to the continued existence of a school or the survival of an educational paradigm.

Three years ago, the chance to change this long-lived dynamic came when the Governor and the Legislature embraced a foot-in-the-door concept called charter schools. Up to 100 schools were allowed to step outside the system, design their own operations -- and earn their continued existence by proving the value of their decisions through documented student achievement.

Many involved in the creation of the charter school program thought that widespread frustration with the current system would prompt a modern-day Gold Rush through this door of opportunity. But the stampede never materialized. People moved cautiously and a full three years passed before the number 100 was assigned to a charter school and pressure began to build for more.

Others worried that non-credentialed teachers would feed students a watered-down curriculum or that specialized educational "cults" might arise, subsidized at public expense. There is scant, if any, evidence of this occurring. Others feared that the lure of fiscal freedom would unleash profiteers in the classroom. Nor has this occurred on any grand scale.

What has occurred in charter schools has yet to be documented. The enabling statue requires a Department of Education assessment, but not until January 1, 1999. In the meantime, many believe the program could be tweaked – some because they want to see charter schools made "more accountable" and others because they want to ensure the freedom that the original law intended.

Up to 100 schools were allowed to step outside the system, design their own operations – and earn their continued existence by proving the value of their decisions through documented student achievement.

Long an evaluator of California's education efforts, the Little Hoover Commission in August 1995 embarked on an assessment of the charter school program. The Commission's goal was to determine how the experiment is progressing and identify any obstacles to the full exploration of alternatives promised by the charter schools concept.

Gathering more than 70 experts with diverse backgrounds on an advisory committee, the Commission conducted 26 hours of working group sessions to identify key issues and possible solutions (please see **Appendix A** for the list of those who participated on the advisory committee). In addition, the Commission convened two public hearings, one in Los Angeles and one in Sacramento, to explore issues with education leaders, academic experts, labor interests and parent representatives (please see **Appendix B** for the agendas of the two public hearings). The Commission also reviewed literature from across the nation, conducted numerous interviews with experts and received input from many who heard about the study as it progressed.

Finally, and perhaps most importantly, the Commission visited 26 different charter school operations throughout the state, meeting with principals, teachers, staff, parents and students (please see **Appendix C** for a list of schools visited). Since this represents more than one-fourth of the charter schools (some of which are not yet operational), the

Commission believes it is uniquely situated to report on the reality, as well as the theory, of charter schools in California.

The Commission's multi-faceted efforts and resulting conclusions are documented in this report, which begins with a transmittal letter to the Governor and the Legislature, an Executive Summary and this introduction. The following sections include a Background and four findings, each with accompanying recommendations for action. Interspersed throughout are the stories of the 26 school sites visited by the Commission. The report ends with a Conclusion, Appendices and Endnotes.

Background

- ✓ *Charter schools operate under binding contracts that guarantee academic results in return for freedom from red tape.*
- ✓ *The charter movement blends private-sector concepts like competition with public-sector access and accountability.*
- ✓ *Twenty states have charter school laws; California's is considered a "strong" law, despite the cap on schools and lack of multiple sponsors.*
- ✓ *California has assigned 109 charter numbers but only 89 schools are operating, serving more than 36,000 students.*

Background

For the past three years, California schools have had the opportunity to experiment with different administrative and educational approaches under a law that waives the statutes, regulations and policies that apply to other schools in return for a contractual promise to produce results. While too new for any definitive assessment of student outcome, charter schools have had enough longevity for those involved to identify key problem areas and to push for reforms. To assess what has been accomplished and what goals have yet to be realized requires an understanding of the charter school movement.

This background section explores some of the theoretical underpinnings of the charter movement, lays out the provisions of California's own charter law and summarizes the national experience with charter schools.

Charter School Theory

Most authorities on charter schools trace the origin of the concept to a 1988 book by educator Ray Budde titled *Education by Charter: Restructuring School Districts*. But the idea has a rich and long heritage in the alternative education movement that grew in the 1960s and 70s and centered on parents being able to choose from a variety of school formats operated by committed teachers.[1] A substantial body of research indicates that alternative schools are highly effective for multiple reasons, including the element of choice in attendance.[2]

Budde built on alternative schools by adding a formalized contract between teachers and the school district and placing the concept in the context of changing the way schools are governed. He believed education by charter would achieve four goals:

- *Redefining the roles of teachers and administrators.* Teachers would have control over instruction and would be accountable for results. Administrators would focus on long-term planning and providing a safe, positive climate, rather than on the daily details of what takes place in the classroom.

- *Changing the way school boards operate.* Boards would shift their attention from instructional minutes and bus schedules to the broader matters of educational results.

- *Improving curriculum on a continuing basis.* No program, course or service would continue year after year without being judged for effectiveness in meeting stated objectives.

- *Forcing the identification of the knowledge base for the entire school curriculum.* For charters to be approved and operate effectively, all parties will have to work to define the desirable scope of knowledge that children should be exposed to through the school curriculum. Typically, the knowledge base is ill-defined or there is little consensus on what needs to be included.[3]

Budde's idea for allowing a group of teachers to enter into a binding charter with their school board to operate an alternative educational program was promoted in a 1988 speech by American Federation of Teachers President Albert Shanker. In his adaptation of Budde's concept, Shanker envisioned autonomous units within schools that would be created and operated by groups of teachers under a procedure developed by parents and teacher unions. The school-within-a-school would have specific learning objectives measured by performance-based assessment.[4]

The idea was attractive to those who wanted private-sector concepts to drive school improvement -- but who were loath to see education move outside the public sector, where it had proved a unifying experience for more than a century.

The charter school idea was attractive to those who wanted private-sector concepts like competition to drive school improvement -- but who were loath to see education move outside the public sector, where it had proved a unifying experience for the country's diverse citizenry for more than a century. By 1991, Minnesota had passed the first charter law in the United States, followed by California in 1992 and more than a dozen others since.

Like many theories that are fleshed out by laws, the charter school concept was modified from Budde's and Shanker's original idea. While charter laws vary from state to state, most have the following common threads: Organizers, who may be parents, teachers or other interests, commit to an educational approach and guarantee to produce measurable results in a contract that is approved by a sponsoring educational agency.

usually a school district. The new charter school receives funding on a per pupil basis and is freed from adhering to most educational laws, regulations and policies. In return, the school must produce the agreed-upon results or the charter can be revoked. Students attend charter schools by choice and parents often are required to commit to some level of participation as volunteers.

The lure of charter schools is multi-faceted. One institute that follows charter school issues summarized their attraction as follows:

> *In an ideal setting, charter schools:*
> - *focus on results, not inputs;*
> - *remain or become public schools;*
> - *enhance educational choice options;*
> - *permit true decentralization;*
> - *offer new professional opportunities for teachers;*
> - *enable local boards to become true policy boards;*
> - *and provide for a more market-driven educational system.*[5]

Others have pointed out that charter schools are an appealing type of reform that requires no new investment of funds and that fits within the existing framework of public education -- at least until the framework begins to change because of competitive pressures.[6] One teacher in Minnesota, citing studies that show student achievement is higher in smaller schools when all other factors are equalized, finds that charter schools allow more individualized attention.[7]

Charter schools find support on both ends of the political spectrum. An article in The Economist reported, "Republicans like the charter idea because it offers greater choice; Democrats like it because...it keeps ... within the bounds of free public education."[8] The Democratic Leadership Council endorsed the charter school concept at least partially because of what charter schools are *not*: precursors to private school vouchers and an abandonment of public education. The Council's position paper said:

> *These schools remain within the public school system but without much of the bureaucracy. They encourage teachers to use innovative instruction methods and make them accountable for the results. And they ensure that parents and the surrounding community are involved in each school's success. Finally, charter schools force other public schools to compete for students ... compelling them to improve their facilities and curriculum or face lower enrollments.*[9]

Charter school proponents tend to divide into two camps over the significance of the charter movement. Some see the movement as an experiment that will allow the identification of methods and practices that should be duplicated in traditional schools once their value has been proven. But others see charter schools as leverage to force change throughout the existing educational system. These proponents believe that in response to the expected success of charters and their attraction

for parents and students, the educational establishment will have to change -- or lose funding, face and a future:

> *To these reformers, charter schools are not anti-public schools but pro-child, pro-public choice, and they offer real alternatives. These reformers realize that charter schools are not intended to replace all existing public school systems, but will, just as Apple Computer helped change the culture of IBM and foreign automobile makers prodded change in domestic auto quality, provide the productive tension needed to spur enhancements in children's learning environments.*[10]

The enthusiasm for charter schools is fervent among believers. But the charter school movement has opponents, as well. Some fear that charter schools will become isolated, elite campuses of excellence that will doom the large numbers of children left out to mediocre educations. Others worry that charter schools are a backdoor way of subsidizing religious teachings with public dollars. Some unions believe that employees' rights will not be adequately protected and that hard-won benefits will disappear. Education administrators, deeply engrained with the habit of procedural accountability, believe that relaxed or non-existent rules are an invitation to corruption, graft and scandal. School districts are often uncomfortable with the unaccustomed role of outcome oversight.

Some charter school critics believe that the maverick, school-by-school approach is unnecessary -- that many other reforms are in process that will pay off eventually. And it is true that the charter concept was not put forth in a vacuum. The clarion call for school improvement that followed the publication of *A Nation at Risk: The Imperative for Educational Reform* in 1983 -- a report that found the country's education efforts seriously flawed -- has yielded many flavors of educational reform:

- Some reforms focus on improving education without changing the existing system: moving to smaller class sizes, mandating better teacher training, selecting a standardized curriculum and creating benchmarked, grade-by-grade goals.

- Some reforms try to harness the forces that drive excellence in the corporate world by modifying the existing system: competition (through open enrollment and magnet schools), decentralized decision-making (called school-based management) and performance incentives.

- Other reforms focus on getting rid of the existing system entirely -- although this has been rare in reality, except for a brief flirtation with limited privatization efforts (a small voucher system in Wisconsin and contracting to private firms for school management in a few isolated locations around the country).

- Other efforts center on correcting those who are presumed to be at fault for poor school results: politicians for not allocating

> enough funds, parents for raising poorly behaved, lazy children, and schools for watering down standards so even the least-able student will not suffer from low self-esteem.

The results of the flurry of reforms have been uneven: a good school here, higher test scores there:

> *For decades, administrators, reformers and legislators attempted to improve school performance by mandating curricula, shrinking class sizes, paying teachers more, setting hour requirements for continuing professional development, and other strategies intended to improve the quality of teaching and learning. Billions of dollars have been poured into such 'reforms' with precious little to show for them in terms of student achievement.*[11]

When success occurs, analysts seeking to identify factors that could be replicated broadly often find that the key is having dynamic, risk-taking individuals who drive the process -- the type of individuals who are in limited supply and not easily replicated.

So far, none of the reforms has proven to be a magic bullet that would improve education uniformly, under all circumstances and for all children, although some had a measurable impact on student performance.[12] "We have this romantic view that if we can show a successful pilot school, others will follow. Not true," said one educational reformer who pointed out that decades of successful magnet and model schools have not transformed the system.[13]

Writing in *Politics, Markets, and America's Schools* in 1990, John E. Chubb and Terry M. Moe theorized that the nature of the educational bureaucracy is such that no reforms will succeed completely. The two authors found that reforms are ritualized, regimented and institutionalized until they, too, become part of the overly centralized, top-down structure of education. Such a system is not capable of providing the diversity of learning environments necessary to meet the different needs of children.[14]

The overly centralized, top-down structure of education is not capable of providing the diversity of learning environments necessary to meet the different needs of children.

Taken up by those who advocate a privatized system for education, the Chubb and Moe thesis was quickly entangled in the politicized atmosphere of the fight over vouchers, which allow parents to spend public funding on private school choices. But their conclusions were also taken seriously by those who wanted to retain the public nature of schools. A 1991 Rand study designed to examine alternative structures for school governance echoed the Chubb and Moe findings:

> *The study's goal was to find ways of freeing teachers and principals from the heavy burden of regulation that reduced U.S. school's productivity, while ensuring that schools remained accountable to the public. It was inspired by earlier research showing that site-based management and other "decentralization" efforts initiated by school systems had largely failed. Those efforts did not change the basic centralizing forces in school systems: school boards that create mandates affecting all schools, control of funding by the head office, and civil service rules and union contracts that determine teacher assignments and working conditions.*[16]

The Rand report advocates a new structure of educational governance: contracting between individual schools or groups of schools and school districts. Such a structure – in essence charters implemented universally – would address the problems with the current system, including its misdirected focus. The Rand study highlights that the present education system has two goals: fairness and accountability. While laudable words that are difficult to argue against, these two goals often have little to do with student outcome. The fairness emphasized in education is one of sameness, regardless of circumstances or needs. And the accountability is for adherence to rules, not for producing desirable outcomes. The Rand study concludes:

The fairness emphasized in education is one of sameness, regardless of need. And the accountability is for adherence to rules, not for producing desirable outcomes.

> *By strictly limiting the freedom and responsibility of the people on the front lines – principals and teachers – American public education puts apparent fairness and the avoidance of problems and controversy first and productivity second. If schools were problem-solving organizations, they would be diverse – as different as required in a society where children have different interests, gifts, language backgrounds and degrees of academic preparation, and teachers have different talents. The fact they are, to the contrary, compliance organizations makes most of them passive, routinized and slow to adapt to changes in students' needs, technology and teacher talents.*[16]

After reviewing private-sector, governmental and foreign management structures, the Rand report identified six elements critical to success for a system that, by its nature, must deliver services in widely dispersed places: The local units, or schools, must be self-reliant, have control over local decisions, have flexibility, and be accountable for locally identified results. The umbrella organization, or school district office, must provide assistance rather than direction and emphasize problem-solving rather than control.[17]

Pushing responsibility for education down to the most local level of control -- the school itself -- does not simply follow the theories that have driven the private sector's focus on quality improvement. It also fits in with academic studies of how to improve learning. One study has found that educational achievement is closely tied to size and state funding share:

On average, states with large districts and large schools and states that pay more of the costs of education tend to have the lowest achievement. During the past half century, nonetheless, states have created ever larger schools and districts, and they have increasingly employed remote state funding. Previous theory, research and analyses of achievement data in 38 states... suggest that these trends have been counterproductive for education's chief purpose -- learning.[9]

The researchers concluded that many new types of reform, including charter schools, "may be interpreted as countervailing responses to problems of size and remote governance."

Others have put it more eloquently. "Charter schools provide a license to dream for teachers,

Rand Assessment: Reforms Fall Short

In searching for a new paradigm for school governance, Rand examined a variety of reform efforts but concluded in *Reinventing Public Education* that each was piecemeal and therefore ineffective:

> *Voucher plans define how parents obtain the financial resources to demand better public schools, but not how public or private agencies will provide better schools. Charter schools reduce the burden of regulation on a few schools, but leave the vast majority under the existing governance system. Site-based management changes decision-making at the school level, but does nothing to change the mission and powers of the central office and little to minimize federal and state regulations, categorical program requirements and union contract prohibitions. School board reformers urge an end to micro-management, but they do not relieve board members of the need to resolve complaints and conflicts by making new policies that constrain all schools. "Systemic" reforms try to "align" the different parts of public education via mandated goals, tests, curriculum frameworks and teacher certification methods, but do nothing to eliminate the political and contractual constraints that create fragmented, unresponsive schools.*
>
> *None of these proposals offers a complete alternative to the existing governance system. They leave intact the core of the existing system: the commitment to governing public schools via politically negotiated rules that apply to all schools. Because most of the reforms now openly discussed in public forums can be gradually eroded by the creation of new rules, they are more likely to be transformed by the existing education governance system than to transform it.*

While the Rand report saw charters as a limited experiment that would not succeed in bringing wholesale reform, the report's thrust -- to replace centralized school management with individual performance contracts between schools and governing boards -- is the charter concept on a grand scale. In favoring this alternative, the Rand report dismissed other types of governance system reforms:

> *One can believe that the current governance system will work, but only under the assumption that school staff members can learn to take initiative and responsibility despite a structure of incentives designed to stifle it. One can believe that a market system will work, but only under the assumption that demand will spontaneously elicit a supply of schools that everyone, including the inner-city poor, can find worth choosing. One can believe that a standards and realignment system will work, but only under the assumption that a strong centrally administered system of rewards and penalties would not induce a compliance mentality at the school level.*

In contrast, contracting "is a plausible alternative to the current system, and gives parents, citizens and public officials a way of handling problems that have defeated educational policy makers."

parents and all members of the school community -- and an opportunity to see those dreams become a reality."[9] The speaker was Senator Gary Hart, who made the case for charter schools and successfully authored a law that put California into play in the charter school movement.

California's Charter Law

The charter school law in California, signed into law in 1992 and effective January 1, 1993, allows 100 schools statewide and up to 10 in any single school district to follow a petition process to become a charter school (please see **Appendix D** for the complete text of the law). The law outlines six goals:

- Improving pupil learning.
- Increasing learning opportunities, especially for students identified as low achieving.
- Encouraging the use of different and innovative teaching methods.
- Creating new professional opportunities for teachers, including being responsible for the learning program at a school.
- Providing parents and students with expanded school choices in the public system.
- Holding schools accountable for meeting measurable student outcomes and providing a method of switching from rule-based to performance-based accountability systems.

In return for documenting student outcomes, charter schools are not required to follow any laws that pertain to school districts other than the charter school law itself, requirements in a specific section of law dealing with independent study programs and criminal record checks for school employees.

Charter schools must make provisions for the health and safety of students, cannot discriminate in student selection, must be non-sectarian and cannot charge tuition.

Among the requirements imposed by the charter school law are that charter schools must make provisions for the health and safety of students, cannot discriminate in student selection, must be non-sectarian and cannot charge students tuition. In addition, the law says existing private schools may not convert to public schools.

The area of potential enrollment for charter schools is the entire state, although existing schools converted to charter status must give preference to students residing in the original school attendance area. Attendance by students is voluntary rather than by assignment.

Under the law, any group or individual may petition a local school district board to create a charter school if they have the signatures of either 50 percent of the teachers at a particular school site or 10 percent of the teachers in the school district. None of the teachers need to be committed to teaching at the new facility, and if the school site/50 percent option is used, there is no requirement that the site be the intended facility for the proposed charter school.

Once a petition is submitted, the school district board is required to consider the elements contained within the charter and the level of support for the charter school's creation. If the board rejects the petition, the charter proponents may appeal to the county superintendent of education, who sets up a panel to consider whether the petition received a fair hearing. The school district board can be directed by the review panel to rehear the matter. If the petition still is not approved, the county board of education may consider approving the charter under its own authority.

Once a petition is approved, it is registered with the State Board of Education, which assigns it a number and checks the

Required Elements of School Charters

California's law requires each charter to address 13 areas:

1. The educational program that identifies whom the school intends to serve, what it means to be an "educated person" in the 21st Century and how learning best occurs. "The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent and lifelong learners."
2. The measurable pupil outcomes that the school expects to achieve under this educational program.
3. The method the school will use to measure the identified student outcomes. (Apart from their own selected criteria, charter schools originally also were required to meet statewide performance standards and participate in the statewide assessment process that has since been eliminated. The State's replacement assessment program, adopted effective January 1, 1998, does not reference charter schools.)
4. The governance structure of the school, including the mechanism to ensure parent involvement.
5. The professional qualifications to be required of potential school employees.
6. The procedures that will be used to ensure student health and safety.
7. The means by which the school will achieve a racial and ethnic balance that reflects the sponsoring school district's population balance.
8. Admission requirements, if any.
9. The manner in which an annual audit of the financial and programmatic operations of the school is to be conducted.
10. The procedures for expelling or suspending students.
11. The manner in which employees will be covered by one of several retirement systems.
12. The public school alternatives for students residing in the area who do not choose to attend the charter school.
13. The rights of any school district employee upon leaving the district to work in the charter school, including any right of return.

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petition for completeness. This is not an approval process, but rather a registration procedure.

The charter -- a contractual arrangement between the school and the district -- spells out how the school will be governed and operated and describes how the school's success should be measured. There are 13 areas that charters are required to address, including descriptions of the academic program, expected outcomes and process for measuring results.[20]

Charters can be granted for up to five years and can be renewed thereafter up to five years at a time. The charter school law envisions the main level of oversight coming from the district, which has the power to revoke the charter if its provisions are not followed, fiscal mismanagement occurs, student outcome is not pursued as outlined in the charter or any provision of applicable law is violated.

Charter schools now in operation in California range widely in look and content. A few are so traditional and are tied so closely to their sponsoring district that the operational differences appear slight. Some make extensive use of information technology, having children from around the state log-on to electronic classrooms. Some schools broaden the standard curriculum with an emphasis on performing arts or vocational training; others ignore the state curriculum framework and follow Montessori or Waldorf theory. Many make adjustments to school calendars and the length of the instructional day.

Charter schools can be classified by their physical facilities. The chart below gives overall statistics for charter schools in California as of February 27, 1996.

Table 1
CALIFORNIA CHARTER SCHOOLS

Charter schools with assigned numbers	109
Charter schools in operation	89
Charter school types:	
Conversion of existing schools	38
Start-up schools	35
Independent study modality	23
Numbers returned to State	7
Schools not using charter	4
Unknown	2
Children enrolled in charter schools	36,308

Source: Little Hoover Commission telephone survey

As the chart indicates, about 21 percent of the charter schools are independent study programs. Of the remainder, roughly half are conversions of existing schools and half are charter schools that have been created and placed in either private or unused school facilities. (Numbers that have been returned to the State include the consolidation of eight schools into a single charter complex in the Los Angeles Unified School District and two schools into a single charter in Kings County.)

The size of California's charter schools ranges from small independent study programs, such as the home study program in Magalia with 18 students, to Placer High Charter School with 1,617 students and O'Farrell Community School's 1,400 middle school students. Students attending charter schools are about one-half of one percent of California's 5.4 million student population.

The schools are widely distributed geographically, with a mix of urban, rural and suburban throughout the state. Thirty out of the State's 58 counties have charter schools. Population-heavy San Diego and Los Angeles counties have the largest numbers of charter schools (14 each, when Los Angeles' single complex of eight schools are counted individually), but they are followed closely by the more sparsely populated San Bernardino (eight), Nevada (eight) and Placer (six) counties. The map on the next page gives an indication of the geographic distribution of the first 83 schools.[1]

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The National Experience

While California is leading the way in terms of volume with 109 approved charters, it was neither the first state to charter schools nor is its law as innovative as those elsewhere. By the fall of 1995, there were 210 charter schools in operation across the nation, with another 55 approved but still working on implementation. Twenty states had charter laws, while another 15 states considered but did not pass legislation in 1995.[33]

Those who follow charter schools closely define state laws as strong or weak, depending on the elements provided. Strong laws provide alternate sponsors to district boards or an appeals process; wide latitude on who may organize a charter; automatic exemptions from laws; fiscal autonomy; legal autonomy; unlimited numbers of charters; and an ability to use non-certified teachers.[33]

Weak laws require the assent of too many stakeholders; limit charters to conversions of existing schools; place the local school board in sole charge of granting charters without an appeal mechanism; and fail to exempt charter schools from enough laws, regulations and contractual provisions.[34]

The chart on the following page displays the states with charter laws and ranks them from stronger to weaker on a horizontal axis.

Initial 20 Charter School Laws: Analysis of "Stronger" Components

	AZ (96)	DE (95)	HI (92)	MA (93)	MI (94)	MN* (91)	CA (92)	NJ (96)	NM* (93)	[illegible] (92)	LA (95)	WI+ (91)	HI (96)	WY (95)	NH (95)	RI (95)	CA (93)	KS (96)	AR (95)	AR (95)
	Stronger →																			← Weaker
1) Non-local board sponsor available OR Appeal process exists	+	+	+	+	+	+	+	+ +	+ +	+					+	+				
2) Any individual or group may apply to organize a charter proposal	+	+	+	+	+	+	+	+	+	+	+	+		+				+		+
3) Automatic exemptions from state law/rules & local policies	+	+	+	+		+	+		+		+		+							
4) Fiscal Autonomy - school has complete control over funds generated by their student count (including salaries)	+	+	+	+	+	+	+	+	+	+	+		+							
5) Legal Autonomy (e.g., teachers are employees of school, not local district) OR the charter (not the law) determines the level of legal autonomy	+	+	+	+	+	+	+	+	+	+	+									
6) No (or very high) limits on the number of charter schools which can be formed (compared to total population)	+	+	-		+			+		+		+	+	+			+		+	
7) Some % non-certified individuals can teach at charter school (w/out having to seek a waiver or alt. certification)	+	–	+	+	+	+	+				+									
Total "Stronger" Components	7	7	7	6	6	6	6	5	5	5	5	3	3	3	3	3	3	3	3	3

+ "Stronger" charter school law components are those which are more true to the charter school concept, challenge the status quo aspects of the system, and theoretically may lead to "broader student impacts and ripple effects. Component #1 (availability of non-local board sponsorship or appeal) is considered a vital component in order to get an adequate number of charter schools started.

+ In Delaware, up to 35% non-certified teachers may be utilized if no qualified alternative certification program exists (and presently there is no such program in the state).

+ In Michigan, the issue of automatic law exemptions is still unclear, and certification is required except in permanently-unassisted schools wherein higher education faculty can teach.

* Based upon "open enrollment" charter school portion of Texas' charter school bill. Eligible organizers are limited to public or private higher ed. institutions, a non-profit, or a governmental entity.

* Colorado's charter schools are allowed by law to be legally and fiscally autonomous, but this is much upon the provisions of a given school's charter.

+ In New Jersey, any teacher or parent within a district may form/initiate, or in conjunction with any in-state higher education institution or private entity, establish a charter school; such schools are eligible for at least 90% of the local levy budget per pupil, and district collective bargaining provisions automatically apply to converted public schools, while salaries within new charter schools must fall within the range established by the district in which the school is located.

Legally, Colorado's charter schools are to remain a part of the local school and to receive at least 80% of their funds; in practice, however, many are operating quite autonomously.

+ In Wisconsin, charter school are automatically exempt from most state laws and rules, and local board policies. Also, recently enacted provisions strengthen the law for potential charter schools within the Milwaukee district only in that such schools can become legally and financially autonomous, and have access to an appeal process involving the new state secretary of education.

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California's law is evaluated as fairly strong, having six of the seven weighed elements. However, its ranking is deceptive. As will be examined in Finding 4, several of the elements that can be read into California's law do not provide the level of strength anticipated. For instance, the appeals process theoretically provides a counterbalance to reluctant school district boards, but for the most part has not proven effective in California. Also the degree of fiscal and legal autonomy is a gray area that must be bargained as part of the charter approval process – but charter proponents have little or no leverage to bargain with.

Those who track charter schools nationally have found that states with weak laws produce few, if any, charter schools – possibly because forming a charter is usually lengthy and difficult and little benefit is gained under weak laws. States with stronger laws account for most of the operational charter schools: Minnesota, California, Colorado, Massachusetts, Michigan and Arizona.[25]

While many of the charter laws are similar, the states sometimes take different approaches. The summaries below indicate key provisions in several of the states:

- **Michigan:** Sponsors can be school boards, universities or colleges. There is no limit to the number of charters. If an application is denied by a school district, voters in the district can demand an election by submitting a petition with signatures from 15 percent of the voters.

- **Massachusetts:** The state secretary of education may approve charters submitted by businesses, parents, teachers or colleges, bypassing the school district board entirely. The charter schools are completely autonomous from the district and are governed by a board of trustees. Only 25 charter schools may be created.

- **Texas:** Charter school proponents may go either to the local school board or to the state board. The law also allows the creation of "home-rule" districts, allowing flexibility and requiring accountability at the district level.

- **Minnesota:** First to pass a law, Minnesota has increased its initial limit of eight to 35. If a school board rejects a charter petition, the state board of education may overrule the decision. Charters are for three years, renewable in three-year periods. Private schools may be converted to public charter schools.

- **Colorado:** Funding for charter schools is restricted to 80 percent of the normal allocation. The schools must request exemptions from specific rules and regulations; there is no blanket waiver of laws. The limit is 50 schools.

- **Wisconsin:** School boards submit charter proposals to the state, which is required to approve the first 10 requests. Although no

more than 10 districts may have charter schools, each district may have two, bringing the state limit to 20.

- **New Mexico**: The state board approves charters, which must be submitted by a school district. Applications must include the signatures of 65 percent of the teachers at a school that is being converted and parent involvement in the formation of a charter proposal must be demonstrated. The limit is five schools.

- **Georgia**: Only existing schools may become charter schools -- and only after agreed to by the majority of staff, faculty and parents. Both the district board and the state board must approve the charter.

- **Kansas**: Charter schools must be approved by the district and the state. With a statewide limit of 15, charter schools remain part of their district and must apply for waivers of laws.

Charter schools are too new for any definitive assessment of student outcome. The United States General Accounting Office, for instance, examined charter schools across the nation in January 1995 but noted that many charter schools are still forming systems to measure results.[36] The Pew Charitable Trusts have granted funding to the Hudson Institute for a two-year national study, but the evaluation process is just beginning. Both the Southwest Regional Laboratories and the Far West Laboratories have studied charter schools but have largely concentrated on demographics, charter creation issues and operational differences.

In other countries, charter movements are also growing. New Zealand, Australia, Canada, Britain, Denmark, Sweden and Holland are using charters to decentralize education. A 1992 Brookings Institute study of the British experiment that began in 1988 concluded that the results have been positive.[37] Today more than 1,000 of the country's 33,000 schools have "opted out" of the formal system under a charter process -- and their existence has encouraged reforms in the schools still in the system, according to British experts.[38]

Data about results is difficult to come by in California, across the nation or overseas. But that has not slowed the creation of charter schools.

Data about results is difficult to come by in California, across the nation or overseas. But that has not slowed the creation of charter schools. Embraced by those with differing political perspectives and fed by the continuing dissatisfaction with the performance of existing public schools, the charter school movement is gaining momentum. Those who fear it is an unwarranted rush with an impact on children that has yet to be gauged are answered by those who see little hope that a stagnant, self-satisfied educational system will ever find gumption enough to improve on its own.

In California, as in other states, the debate has moved from the theoretical to the practical now that charter schools are in operation. The following sections of this report examine California's experience with charter schools, define problem areas and make recommendations to improve the charter school program.

Charter Success

- ✓ *Charter schools have shown significant ability to win community support, unleash creative energy and stretch limited resources.*
- ✓ *The success of charter schools also can be measured by parental satisfaction, academic innovation and enhanced professional opportunities for teachers.*
- ✓ *Because current testing techniques are viewed as flawed and California has not developed statewide achievement standards, charter schools have no way to uniformly prove that they are academic success.*
- ✓ *The charter system allows quick action when a school strays from its obligations, as evidenced by the State's only charter revocation.*

Charter Success

Finding 1: The success of charter schools, indicated by a variety of factors, makes the statutory cap on their expansion an unwarranted limitation on creative energy and student access.

Charter schools have been operational too short a time to track academic achievement in a meaningful fashion. But by many other measures, as documented by the Little Hoover Commission and other researchers, these schools are successful. These measures, which are tied to goals defined in the charter law, include parental satisfaction, innovation, teacher opportunities and fiscal management. The degree of success means the statutory cap of 100 schools statewide -- adopted as a cautionary safeguard -- is now counterproductive, blocking the efforts of those who have plans to improve educational opportunities and local support for those plans.

When the charter school law was enacted, an arbitrary cap was put in place. The number 100 had no special significance or mathematical relationship to the State's 7,896 public schools, nor was there any attempt to link charter student numbers to the State's 5.4 million student population.[19] The cap was simply accepted by legislative proponents to counter fears that experimental schools would proliferate uncontrollably, potentially wasting money and shortchanging children academically before results could be assessed and corrective action taken.

However, districts have moved slowly and with deliberation to approve petitions, and the ceiling was not reached until three full years after the law became effective. During those three years, many charter schools built a record of innovation and accomplishment. Although the record is

not without blemishes, experience indicates that the charter law provides school districts with sufficient authority to address problems.

At this point, the cap is preventing districts from moving forward confidently with additional charter schools despite local support and student demand. (In February 1996, the State Board of Education began issuing charter numbers beyond 100 under its own authority to waive portions of the Education Code, but legal action has been threatened by charter opponents.) As a result, the opportunity for constraint-free experimentation embodied in the charter law has been short-circuited and the potential benefits for students have been limited.

When the charter school law was passed and signed, many observers believed the implementation date of January 1, 1993 would bring instantaneous crowds, with approved petitions in hand, to the State Department of Education to demand charter numbers before they were used up. Instead, the Department received only eight petitions in the first few days. By the end of 1993, 44 charter schools had been approved and assigned state numbers. A year later, the total rose to 72. The final numbers were assigned in December 1996.[20]

Some have expressed concern that the slow build-up indicates that the process to create a charter school is flawed and stacked against charter school proponents. Others have used the slow trickle to support their argument that charter schools are an unneeded reform that is not attractive to educators.

But a realistic perspective undoubtedly is that forming a charter school is a work-intensive project that requires considerable thought, discussion, study and consensus by the people who will be affected. In producing the 13 elements required in a charter, the founders must address a wide variety of topics -- from the fundamental questions of educational method and forms of student assessment to the practical details of retirement systems and discipline structure. Because charter schools are individualistic by nature, founders may borrow what they admire from predecessor charter schools. But they typically build on, modify or reframe concepts rather than adopt cookie-cutter emulation of other charter schools.

Forming a charter school is a work-intensive project that requires considerable thought, discussion, study and consensus by the people who will be affected.

The result has been a wide diversity in look, methods and circumstances. Some charter schools have focused on providing a different curriculum or a different approach to teaching the curriculum. Others have concentrated on giving teachers time to network and collaborate to integrate course content across grades. Others emphasize providing services -- to the children, parents or community. Some build around their perspective of children as natural learners who can help each other

when they are not placed in assigned seats and strictly regimented by age and grade. Most seek parental involvement, through volunteerism, fund-raising, student support at home or simply awareness of classroom activities.

The differences make it difficult to perform any meaningful analysis of charter schools based on mere raw numbers or comparative statistics. And the performance of an individual charter school says little about the overall success or failure of the charter school mechanism since each school operates separately, by different rules and standards.

The legislation creating charter schools directs the Department of Education to review the charter school approach for "educational effectiveness"[31] – a phrase that is not defined in the law but that can cover many factors. There is ample evidence that success should be measured by more than just test scores. The elements of the law imply several yardsticks:

- ***Test scores and other pupil assessment tools.*** The law specifically requires charter schools to document academic performance in two ways: by using assessment tools to be selected by the charter founders and listed in the charter *and* by participating in the statewide California Learning Assessment System test.[32]

- ***Parental satisfaction.*** The law lists expanding parental choice as a major goal.[33] In addition, the law allows students to attend a charter school without regard to boundaries or residence, instead of placing them in the schools by assignment.[34] What this means is that a charter school that does not succeed in providing satisfaction to its clients – parents and students – will lose enrollment, funding and eventually the ability to operate.

- ***Fiscal prudence and economical value.*** Charter schools are required to arrange for annual fiscal audits, and financial mismanagement is listed as a reason for charter revocation.[35] In addition, since the law makes no provision for start-up funding, facility costs or other supplemental financial assistance, there is a substantial implication that successful charter schools are those that find ways to squeeze maximum value out of each dollar.

- ***Academic innovation.*** A major goal of the law is to encourage the use of different and innovative teaching methods and curriculum. Implicit in this statement is the subsidiary goal of increasing learning opportunities for students through different approaches that match different learning styles.[36]

- ***Enhanced opportunities for teachers.*** Another stated aim is to create new professional opportunities for teachers, particularly in independently operating school sites and implementing creative teaching methods.[37]

- ***Increased focus on low-achieving students.*** The law not only specifies low-achieving students as a major target of charter school programs, but also directs school boards to give preference to charters that serve these students.[38]

- ***Avoidance of discrimination and segregation.*** The charter school law directly forbids discrimination of any type in admissions and requires charters to include plans for maintaining ethnic balances similar to that of the sponsoring district.[39]

- ***Consequences for performance.*** The law grants schools almost unlimited freedom. In return, it demands performance. Falling short of the charter's commitment to perform in any one of several ways should result in a charter's revocation.[40] In a negative fashion, then, one measure of success is the system's ability to weed out failure through charter revocations.

Several institutions are studying the performance of charter schools in California, usually focusing on one or another of the yardsticks outlined above. These include the Southwest Regional Laboratory, Far West Regional Laboratory, the Institute for Policy Research and Analysis, Pacific Research Institute and the University of California, Los Angeles.

Adding to their efforts is the Little Hoover Commission's own research. The Commission visited 26 charter schools, in almost all cases interviewing a combination of teachers, staff, parents and students. In addition, key personnel at more than a dozen other charter schools were contacted by phone or interviewed off-site. While falling short of the numbers surveyed on paper by other research organizations, the Commission believes the in-depth and on-site nature of its inquiries contributes strong evidence for the analysis of the charter school movement in California.

In the sections below, the separate evaluation efforts are integrated for each of the eight yardsticks identified above to give an overall assessment of the performance of charter schools to date.

Test Scores

Meaningful assessment is difficult in all schools. There is no national or state consensus on what specific academic benchmarks should be reached by students at each grade level. An extremely mobile population gives many schools a high transiency rate, which means they are not testing the same student body year after year to gauge the academic growth that can be attributed to the school's methods. And "snapshot" scores that allow school-to-school comparisons fail to take into account differing levels of baseline knowledge when students walk in the door. A school with large numbers of special education students, English learners or mid-year transfers may do an excellent job and provide a stimulating curriculum -- and still have low scores compared to a more stable school that has few special-need students.

In addition, attitudes about tests themselves are changing. Educational experts are moving away from tests that simply reflect a student's ability to memorize facts and instead are seeking to develop ways of measuring how well students can think. One reason is that fill-in-the-blank, multiple choice tests may actually reflect more about when a teacher concentrates on a particular skill than what the child can do. In one example, a school's math scores shot up dramatically one year, apparently solely because the teachers there moved the multiplication unit from late in the school year to early spring.[47] But critical-thinking tests have problems as well. Largely subjective rather than objective, these tests are controversial and difficult to score consistently for valid comparisons.

California's movement in this direction was the California Learning Assessment System (CLAS), a test that was eventually eliminated after public dissatisfaction with its content and problems with the statistical validity of reported results. Its elimination left charter schools without the mandatory statewide comparison test referenced in the charter law -- and the enactment of a law in late 1995 authorizing the creation of a new test failed to include charter schools as a required participant or funding recipient.

What this means is that at the same time that there is general recognition of the multiple flaws in current assessment processes and a breakdown in California's own measuring system, the State has produced a school-creation mechanism that relies on proving that student outcomes are good. The difficulty of meeting that mandate in an era when no other public schools are held accountable for academic results is recognized by both opponents and proponents of the charter movement.

So it is not surprising to find a wide diversity in the quality of performance measuring plans produced by charter schools. Many charter schools reference the now-defunct CLAS test in their charters as the single statewide assessment tool that they will use. And, because they view themselves as on the cutting edge of educational theory, many charters decry the standardized multiple-choice, fill-in-the-blanks tests that are commonly used elsewhere. As the Open School in Los Angeles wrote:

> ***Charter schools must prove they are successful at a time when testing techniques are viewed as flawed and California has no statewide system for assessing outcome.***

> *We believe strongly that traditional, standardized multiple choice tests are inadequate...Built upon outmoded behavioral theories of learning, these measures focus on discrete skills and narrow basic skills content; neglected are the complex thinking and problem solving skills which are the focus of our curriculum and instruction.*[48]

Most charters include subjective assessment processes, such as portfolios of student work, performances by students, individualized evaluations, community service, surveys and self-evaluations. Many are rhetorically rich and statistically vague about what increases in student achievement will constitute success by the school.

BW Associates summarized the situation in a paper targeted at assessment process:

All charter schools have developed outcomes. Only a few have "designed down" from these outcomes, breaking away from traditional subject area distinctions. Still fewer have benchmarked those outcomes with balanced, purposeful and reliable assessment instruments tied to criteria for determining "how good is good enough."[1]

BW Associates identified two schools as models: Bowling Green Elementary in Sacramento and Guajome Park Academy high school in Vista. At Bowling Green, the school has identified broad educational goals, such as fluency in a language, math and science knowledge, writing ability, compassion, self-initiation and exercise. Those are tied to specific targeted outcomes with accompanying assessment processes. For math and science knowledge, for instance, a student should be able to demonstrate the ability to use algebra skills and

Breaking Away from Standard Tests

Many charter schools are uncomfortable with traditional testing mechanisms and express their reservations in their charters. Two examples are Westwood Elementary School in Los Angeles and Darnall-E Campus in San Diego.

Westwood Elementary: *The major achievement goal of our curriculum is to develop students' thinking and reasoning skills. Part of our vision is to implement a comprehensive assessment plan that will measure how well students can solve problems and understand complex concepts. We want our assessment techniques to reflect the emerging National Performance Standards, especially the emphasis on students' problem solving, communication and reasoning. We are dissatisfied with the current focus on conventional paper-and-pencil multiple-choice tests that measure narrowly defined competencies because we believe such tests cannot measure the full range of outcomes emphasized in our program. We propose instead to use alternative measures, primarily performance-based tests, to evaluate students' achievement and to judge the success of our program.*

Darnall-E Campus: *Most traditional tests do not reflect developmental theory and practices. These tests measure isolated skills, stress academic knowledge and rely heavily on multiple choice questions. Traditional achievement tests have emerged as a reflection of the pressures that too often threaten the normal development of children. "Assessment" is often used synonymously with a paper and pencil, multiple-choice test; "authentic" assessment, however, implies a wide range of methods that provide information to teachers and parents about a student's knowledge, capacity and growth. We recognize that children learn by doing; there is a strong kinesthetic element in all children's discoveries and growth processes. Their assessment should respond to their need for active engagement.*

Darnall's charter also contains a pertinent quote from a San Diego State University professor:

How often does the 'real' world require us to select the best from among a through e, or how often are we rewarded for filling in the blanks completely and legibly? Driver's testing, choosing from a menu in a Chinese restaurant, or filling in our tax forms – these are not the critical traits of our worth as human beings. Why are they the crucial tests of our worth as students? If we're going to prepare students for active, healthy, productive and rewarding lives, then let's test them realistically or authentically. As they pass from one developmental stage to the next, let's see how effectively they have reconciled the conflicts and learned the lessons of the stage they are about to leave behind. Let's see what they can build, and let's give them souvenirs of their accomplishments. If we always associate testing with arbitrary exercises and mystery answers, we'll never learn the real meaning of challenge and we'll never experience genuine rites of passage.

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concepts -- which will be measured three ways, a demonstration, an integrated Performance Task and the CLAS test.[44]

At Guajome, students are expected to progress through divisions by demonstrating the mastery of identified benchmarks with separate portfolios of work. The school created a School Performance Index that combines progress on school standards, CLAS results, Advanced Placement exam results, SAT results and other similar measures.[45]

Other schools have kept their objectives simple but well-delineated. Fenton Avenue School in the San Fernando Valley says that students will be assessed by teacher-made tests, pre- and post-standardized tests, teacher observation of student's critical thinking skills and student portfolios. These general statements are coupled with a specific set of goals for measurable pupil outcome: "CLAS scores will increase by at least 10 points in reading, written expression and mathematics....CTBS and Aprenda scores for all students will increase by 5 percentile points [with rate of gain correlating to length of attendance at Fenton]."[46]

Some schools have targeted excellent outcomes but have little definitive to say about assessment. Peabody Charter School requires students to possess the ability to:

- Read, infer from and interpret literature, poetry, newspapers, reference sources, texts, graphs and applications.
- Communicate clearly to effectively transmit facts, ideas, emotions and opinions using oral, written and visual language.
- Discern mathematical relationships, reason logically and use mathematical techniques effectively in practical application.
- Understand and apply the major strands of scientific thought, methods, facts, hypotheses and theories.
- Use technology effectively to access, compose and communicate information and ideas.
- Express ideas and emotions through the use of visual and performing arts.
- Work cooperatively and collaboratively with others.

The Peabody charter's assessment section lists the CLAS test, portfolios, conferences and surveys, but for the main form of assessment, the charter states goals rather than specific measurement systems. It says:

> *We propose to use performance-based instruments which are grounded in current theories of learning and cognition, are educationally meaningful and exemplify the types of authentic tasks and competencies students will need for future success.*[47]

Despite this charter-enshrined wish list, Peabody, like most schools, does use standardized tests -- and in their case the results have been good. The principal reports that there were great gains in the CLAS test results when before- and after-charter scores were compared, and standardized test results have been trending up. Similarly, Fenton Avenue reports solid improvement in test scores, and Accelerated Charter School in Los Angeles saw dramatic jumps in reading and math scores.

Vaughn Next Century Learning Center in Los Angeles, on the other hand, has seen scores go down after initial improvements -- but the school also mainstreamed a substantial number of special-needs children into regular classrooms and testing situations. Natomas Charter School in Sacramento is another school that has seen mixed results. Comparing its students to another middle school, Natomas found that its eighth grade students scored high but seventh graders did not do as well.

No governmental institution or research organization has collected charter-school-by-charter-school data on academic results. But most charter schools make annual reports with such data to their sponsoring school districts. Since the law places responsibility for monitoring performance with the sponsoring district, the final determination of success as measured by test scores is unlikely to be known until charters -- most of which are authorized for five-year periods -- are reviewed for renewal. The charter school law cites failure to meet or pursue any of the pupil outcomes identified in the charter as a valid reason for revoking a charter.[48] But early indications are that many charters are at least as successful as non-charter schools, despite their reluctance to be judged by standardized tests.

Parental Satisfaction

Charter schools by definition are consumer-oriented organizations. Students cannot be assigned to attend charter schools but must be placed there by parents voluntarily. And charter school funding is directly tied to student attendance. A charter school that does not keep parents satisfied will not exist long.

There are several indicators of parental satisfaction. First is the long waiting lists and high rate of returning students. All of the schools visited by the Little Hoover Commission had to turn students away, maintained waiting lists and had a good record of retaining students. Although it was not clear whether parents were flocking to the education alternative of their choice or simply fleeing from unattractive educational environments, the demand for the option provided by charter schools is high.

In one instance in Nevada County, parents were the main drivers in the creation of a school that follows Waldorf theory -- with its heavy emphasis on art and drama, developmental appropriateness, teacher continuity across multiple grades and hands-on experiences. The first

district the parents approached had no interest in sponsoring the charter, so they tried Twin Ridges Elementary School District. Once the charter was approved, the school eventually settled on a site in Nevada City, half an hour's drive away from the sponsoring district. Parents who send their children to the school are very involved in governance, attending mandatory meetings, committing to restricting television in homes, providing 30 hours of volunteer work per school year and adhering to a student dress code.

Not all parents are that active in the formation and operation of their charter school. But a second indicator of parental satisfaction is the extensive degree of parental involvement. The Commission's interviews with parents during the charter school site visits revealed a pervasive commitment to participating on campuses through volunteer activities that ranged from governance, fund-raising and classroom assistance to janitorial, construction and repair work. While many schools include a requirement for a set amount of parental volunteer time, none told the Commission about enforcement problems. By and large, parents who had gone to the extra effort to identify a desirable school and transport their child to it apparently felt little hardship in also donating time. Each of the schools reported having a variety of volunteer chores available so that parents without the means or schedule flexibility to participate during the day could still have a role in assisting the school.

Grass Valley: Away from Home

Her daughters were in first and third grade when the mother realized how little they were getting out of Nevada City's neighborhood school. "Between the overcrowding in their classrooms and the lack of control that schools have in dealing with troubled kids, they just weren't getting the attention they needed."

So she took them home and for two and a half years taught them herself. "I never thought I'd be the type to home school, but it was so much fun and we all became involved."

The children grew, though, and the demands of the curriculum increased. Looking for more support in math and science, the mother began to re-examine public schools -- and found **Grass Valley Charter School**.

Designed to bring home schoolers back into the public fold, the Grass Valley Charter School offers two options: a straight, supervised home study program and a "core academic" program with a modified day. Under the core academic program, students get their language arts, math, social studies and science in a classroom setting from 8:30 a.m. to 12:30 p.m. daily. Their parents provide art and physical education sessions at home.

Covering kindergarten through eighth grade, the school has enrolled 85 students in each of its options, and there is a waiting list for both programs.

The school, which shares classroom facilities with another school, remains tightly tied to its district, with no financial autonomy. But the charter gives the school the freedom to be client-driven, according to staff. The curriculum and schedule are designed around the needs of people who have fled the system because -- up until now -- they had no other option.

A more scientific approach to assessing parental involvement was taken by the Southwest Regional Laboratory, which surveyed 66 charter schools (receiving 54 responses) and 83 nearby non-charter public schools (46 responses) on a range of issues. The Laboratory reported that charter schools have high rates of parental involvement compared to

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non-charter schools, although the absolute percentage of parents involved is not that high, depending on the activity measured. A substantial number of charter schools can count on about one fourth of the parents to help in lunch rooms, offices or playgrounds and about 16 percent to assist in classrooms.[42]

A third indicator of parental satisfaction is the positive commentary from randomly interviewed parents. Although many educators stress innovative curriculum and teaching methods as the main product of charter schools, most parents focused on subsidiary benefits. Reasons for picking and sticking with charter schools that were reported to the Commission during interviews included:

- Small classes and individualized attention for students.
- A school atmosphere that welcomes parents rather than makes them feel like outsiders.
- The evident commitment on the part of teachers and administrators to do a good job, regardless of the effort required.
- The awareness that other students had parents who placed a high enough priority on education to seek out a charter school.
- A sense of safety and well-maintained student discipline.
- The belief that students in the program developed confidence and multiple social skills, as well as academic knowledge.

Like test scores, parental satisfaction can be more meaningfully measured over several years, as charter schools have a chance to develop and either maintain or lose parental loyalty. But initial assessments indicate that charter schools are an option that parents are vitally interested in, and that they are serving to give parents a broader and much-desired range of choices.

Fiscal Value

One of the most startling aspects of charter founders' willingness to create alternative schools has been the lack of additional funding to act as an incentive. Most other reforms have come with some, even if limited, increase in allocations. The State's Healthy Start program, for instance, chunnels extra resources to at-risk students. The school restructuring program known by its authorizing legislation number -- SB 1274 -- gave 212 schools planning grants of $30 per student and 148 schools an average $155 per student extra annually for five years to carry out the planned restructuring. Los Angeles Unified School District's teacher-and-administrator training program known by the acronym LEARN provides extra funds for participating schools.[43]

From the beginning, however, charter schools were meant to be "revenue neutral," according to the program's legislative author.[5] Viewed from a per-pupil perspective, each student's education was to cost the State no more and no less than if the student attended a regular school. Since the per-pupil funding mechanism the State uses does not cover capital outlay and facility costs, this puts charter schools that are not converting existing schools at a distinct disadvantage, as will be examined more closely in Finding 4. In addition, some conversion schools pay rent, maintenance and utilities to their sponsoring districts and many have a percentage of their funding taken off the top for services the district provides, a practice that will be discussed in Finding 2.

What this means is that instead of having extra funding because of avoided red tape and bureaucratic processes, charter schools often have fewer resources than their neighboring counterparts. But in many cases where the charter schools have won some degree of fiscal autonomy from their districts, charter administrators have found ways to stretch dollars and divert them directly to the classroom.

One of the most frequently cited examples is Vaughn Next Century Learning Center in Los Angeles. After the first year of operation on a $4.6 million

Fenton: Fulfilling a Wish List

When Principal Joe Lucente arrived at **Fenton Avenue Elementary School** in the San Fernando Valley, test scores were in the single digits and kids were out of control. The fifth principal in six years, his first priority was to make the pre-kindergarten through-sixth-grade school safe and secure. Five years later, "we had done everything we could within the system to make it as good as we could -- but it wasn't enough." Key staff were burned out and planning to leave; Lucente had the opportunity to move on to a nice school in an affluent district.

If he was going to stay and keep his people, something would have to change. He looked at LEARN, but teamwork and a higher degree of professionalism were not what he was missing. Charters sounded interesting, "but I thought it would be reshuffling the deck chairs."

And then he sat down with the district estimate that charter funding would be $4,300 per student and put together a wish list of how he would run the school if he had a free hand. "The level of staffing, the stuff I would want to buy, everything. I came up with a budget by multiplying $4,300 by the number of kids. And the wish list was within that budget."

He shared his figures with the staff. The upside would be the fulfillment of a dream; the downside was that the school would be doing everything on its own with no support. "Ten days later, we had a general staff meeting and 95 percent on a secret ballot said go for it."

The result is a 1,244-student school that provides intensive services, both to students and the surrounding community. The services include special attention for English learners (more than 60 percent of the students), after-school enrichment classes, supervised playground access until 6:30 p.m., free breakfast and lunch for all students, parent English classes and individualized assistance for students who need help but are not eligible for special education status. Class sizes are reduced from the district standard, and each teacher has an assistant for half the day.

With direct control of 96 percent of the school's funding, Lucente is able to make fast, economical decisions. The examples range from the small practicalities of running a school (the district wanted $5,000 to install and repair light fixtures, a local contractor did the job for $1,475) to basic decisions about curriculum. When the staff wanted better training in phonics, Lucente located a specialist who would train teacher-student teams eight hours a day for nine days during the breaks in the school's year-round calendar.

It wouldn't have been impossible if the school were not a charter -- "but it would have taken six months of budget transfers, and the funds might not have been there."

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budget, the school had a surplus of $1.2 million, much of which was used to build additional classrooms, establish a cultural center and library, reduce class sizes, restore teacher salaries to levels that existed before a district-wide cut and lengthen the school calendar by 37 days. The savings were achieved through multiple economies, including streamlining hiring costs, eliminating the ticket-taking function from the free lunch program and increasing student attendance rates to 99 percent (schools receive funding based on student's daily attendance). In addition, the principal has worked to reduce the cost of liability insurance, and has mainstreamed special education students, both to better meet their needs and to reduce payments to the district for special services.[52]

At Darnall-E Campus in San Diego, the principal manages a budget of about $2 million, compared to the $12,000 or so that most similar schools have discretion over. With that comes a heavy responsibility, but also the exhilaration of figuring out ways to stretch dollars. When the school was cramped for space, it sought district bungalows. The principal discovered that not only would they cost four times what he could pay elsewhere, but also the district's planning staff was so backlogged that it would be months before his school's turn for blueprints. Using his charter-granted ability, he acquired the bungalows on his own. When the other district schools saw what he had accomplished, they pressured the district into creating a mechanism that allowed speedier and cheaper purchasing for all schools. Meanwhile, such savings at Darnall-E have allowed the school to open a before-and-after-school child care center that serves breakfast and charges only $35 per week.

O'Farrell Community School in San Diego found that it could hire a gardener on its own cheaper than using the district's once-a-week service. Fenton Avenue Charter School in the San Fernando Valley runs its own food service, saving money and providing better meals. All of Fenton's cost-trimming efforts added up to a $200,000 surplus the first year, much of which is channeled back to extra resource teachers and information technology opportunities for students. Peabody Charter School in Santa Barbara uses low-cost assistants under the direction of a physical education teacher to run an educationally sound exercise program while recapturing funds to add more art options to the curriculum.

Almost all of the schools visited by the Little Hoover Commission cited various cost savings that allowed more flexibility in serving students. And the Southwest Regional Laboratory surveys found a strong emphasis on fiscal freedom among charter school administrators. Their research showed that 64 percent of the schools had fewer purchasing restrictions than their counterpart schools; 47 percent felt they had more money to meet their objectives; and 50 percent believed they were spending money more wisely.[53]

Putting more dollars directly into the classroom is a high priority for many critics of the existing education system. Therefore, charter schools that

creatively manage their funding to benefit students with more services can be judged successful. And in many cases, according to the Little Hoover Commission's research and surveys by Southwest Regional Laboratory, such fiscal prudence is successfully occurring in charter schools.

Innovation

Although there is no law requiring all public schools to teach in the same manner, the top-down controls over many aspects of education push schools in the same direction. The State authorizes the use of certain textbooks, districts set parameters for curriculum so students can move from grade to grade and school to school, and schools set expectations for teacher activities in the classroom.

When innovation occurs in regular schools, it arrives wholesale: small group collaboration and cross-age partnering sweep into schools, whole-language reading replaces phonics, parent-teacher conferences are suddenly "led" by the students, and thematic, integrated instruction becomes the rage. But by and large, the educational system treats students as a universal end product -- in direct contradiction to the well-documented fact that they have diverse learning styles that are best met by different methods.

Three Schools: Good and Getting Better

Forming a charter is sometimes a school's response to overwhelming conditions and poor academic achievement. But all too often, the charter concept is picked up by schools that are already busy experimenting, reforming and reaching for excellence.

O'Farrell Community School: A 1,400-student middle school, O'Farrell was in the State's Healthy Start program, was an SB 1274 school restructuring grant recipient, served as a magnet school for the district and also was a participant in the Coalition of Essential Schools. With a population of low-income, ethnically diverse students, O'Farrell had already substantially restructured its program and methods before the charter opportunity emerged. The school focuses on individual responsibility and personal commitment through a "house" structure that promotes academic achievement and provides needed social services.

So why go charter? It accomplishes two things, according to staff. One is the long-term protection of the reforms already achieved. The other: "It let us hire people that match our community. It has freed us to bring in the people we need to make our program work." That has included a job-sharing arrangement between a choral instructor and a singer/teacher, neither credentialed, but both valuable additions to the school's curriculum.

Peabody Charter School: Similar arrangements at Peabody in Santa Barbara have given that kindergarten-through-sixth grade school the flexibility to provide time for teacher collaboration. Non-credentialed specialists in physical education, arts, music and ceramics are responsible for students during the 45-minute segment that the school day has been extended. Teachers use that time to meet, strategize and integrate the curriculum across grades.

Before its charter status, Peabody, with 665 students, had already been acknowledged as an excellent school, partnering with the nearby University of California campus in a teacher training program. The principal believes that, with the exception of the non-credentialed specialists, most schools could make similar reforms without charter status. "But the charter gives permission in an environment where permission isn't often given." A parent/volunteer agreed: "It's the difference between being a renter and being a homeowner. The responsibilities are immense, but so are the opportunities."

Johnson Urban League Charter School: Further opportunities were what the Urban League was looking for when it went helped a school go charter. Already a magnet school with a space technology emphasis, the San Diego kindergarten-through-sixth-grade school had partnered with the Navy's USS Cleveland and the city's Space Museum to enrich the curriculum. With charter in hand, the school is planning to bring in Berlitz instructors to teach Spanish and is busy restructuring the entire curriculum to challenge the 460 students there to excel.

Critics of the charter school movement contend there is nothing to stop non-charter schools from providing many of the innovations pointed to with pride by charter schools. That undoubtedly is true – but it is also true that such innovations are rare in regular public schools while they are a standard for charter schools. The Southwest Regional Laboratory survey found that nine types of innovation are much more common in charter schools than in comparison schools, including different approaches to instructional strategies, site-based governance and parental involvement. More than half of charter school administrators classified charter status as essential or valuable in allowing innovation regarding staffing, fiscal issues, class size, scheduling, parental involvement, counseling, governmental structure, organizational structure, course content, instructional methods and student grouping.[34]

In some cases, charter schools previously had strained to be innovative under various reform movements – SB 1274 restructuring grants, magnet schools where specialty programs are designed to attract ethnic balance, Coalition of Essential Schools that emphasize teachers as coaches and group learning, the Core Knowledge Sequence where common knowledge benchmarks are established for each grade or age. Despite these often-successful efforts, these already-innovative schools felt the need for further freedom.

Darnall-E Campus in San Diego is a good example of a school that took the further step of obtaining a charter after successfully winning SB 1274 restructuring funds and being identified as a "Break the Mold" school at the national level. The principal there feels that SB 1274 was a "springboard" that allowed the school to focus on a vision; the charter has provided the status that allows the school to evolve toward fulfilling the vision.

Some see charter status as a necessary component for progress; others find it gives legitimacy those who want to be different.

Using the charter-granted freedom, Darnall has pulled entirely free from the State's standard frameworks and typical curriculum. Rather than sticking to a kindergarten through sixth grade format, the school groups children in early primary, primary and elementary classes. A triad of teachers work together with the same 90 students for three years, providing continuity and personal attachment. Self-esteem, community awareness and mutual respect are underlying themes of a curriculum that focuses on real-world experience and multi-faceted social development in addition to basic skills.

Clear View Elementary Charter School in Chula Vista is another SB 1274 school that saw charter status as a necessary component for progress. As leadership changed at the top of the district and some programs faced elimination, Clear View obtained its charter to protect the mission it had cut out for itself. This included its partnership with San Diego State University in providing professional development experience for teachers.

innovation here emphasizes peer input and individualized teacher assessments, as well as child-focused programs designed to increase life-long learning, critical thinking skills and strong ties to the community. Students do not receive traditional A through F grades. Instead, rubrics are used to assess progress and identify further goals. The school's "primary language cluster site" serves not only non-English speakers but also students whose parents want to immerse them in a second language. Saturday sessions provide "sheltered" English instruction -- lessons delivered in simplified English -- for many Asian students who are transitioning to English.

Open Charter School in Los Angeles, a kindergarten through fifth grade school with 384 students, has long marched to a different drummer, finding some protection for its unusual program as a district magnet. "We always operated a little differently," the administrator says. "The school always had a major focus on curriculum and just did what we wanted despite the district. But the charter status gives legitimacy to the school -- that it's okay to be different." Staff explored the option of joining the district's LEARN program, which also gradually gives schools more freedom and flexibility, but they judged it "too hierarchial -- we had already progressed beyond it and it would have been like moving backwards."[65]

A partnership with Apple Computers in the 1970s gave the school an early foothold in the world of information technology. Following a child-led, discovery-based approach rather than focusing on teaching basic skills in a certain order, the school uses multi-age groupings in clusters of 64 students team-taught by a pair of teachers. Each cluster concentrates on a different theme that integrates all elements of learning: for instance, marine life in one cluster, and the construction and operation of a model city in another. The learning style is not suited for everyone, the school's staff says, and parents have to be educated about the approach before students are enrolled to avoid misplaced expectations. But the payoff is students with superior critical thinking ability, self-confidence in group settings and strong collaborative skills.

These few anecdotal examples hardly do justice to the wide range of innovation that can be found at many charter schools. Schools borrow from Montessori, Waldorf and other child-oriented theories; they plug into advanced information technology; they use rich cultural and artistic experiences; they make use of unusual settings that are accessible and less inhibiting for students. There is ample evidence that innovation is the norm rather than the exception at charter schools, successfully fulfilling the charter law intent of encouraging new methods.

Teacher Opportunities

One goal of the charter school movement is to give teachers a freer hand in the classroom and a stronger voice in school structure. This enhanced professional opportunity was evident in many of the schools

visited by the Little Hoover Commission. In many instances, teachers formed strong networks with other grade-level teachers, engaged in team teaching and devoted extra hours to enrichment activities or meetings.

The importance of teachers in building a successful charter school is clear at many sites. BW Associates wrote about Gerfield Charter School's unique governance structure that involves a joint powers agreement between the county and the Redwood City School District. But special credit for success was given to the school's ability to hand-pick teachers:

Teachers have been selected on the basis of proven skills, whether or not they have credentials, though most do. In addition, teachers have agreed to work 210 paid days, some on Saturdays (versus 180-182 days for teachers in other public schools). Students will attend for 200 days. The average class size has been held to 24, and teachers will share in an incentive bonus system based on group performance. ...Selecting staff on the basis of the school's needs and the staff's skills has provided true flexibility. The uncredentialed and newly hired computer and technology expert, for example, comes from a business background and

Two Schools: A Matter of Timing

At **Oetending Elementary School** in Sacramento, the charter school founders admit that sometimes it is not too clear what is going on that could not have been accomplished without a charter. Their sponsoring district and the local teachers union have maintained tight control. "Sometimes it seems like a lot of work for not that much gain," said one -- but then the "quilt" comes to mind.

The quilt covers one wall of the staff room, a pieced together mosaic schedule that shows children moving in a rotation that allows more individualized attention several times a week. Also known as Oetending's flip-flop, the schedule puts half of the children in each class with children from half of another class in special sessions on art, music, physical education and library skills. The 15 children left behind have intensive time with their teacher -- and then they take their turn in the special sessions, while their counterparts return to the classroom. First and second graders, who can benefit the most from one-on-one time when they are learning to read, flip-flop four times a week, the other grades two or three times.

The unique schedule is not the only innovation but it is the cornerstone of Oetending's goal: meeting the needs of each individual student, whatever those needs are. Another critical building block is parent involvement. A parent education staff person maintains that focus, funded by an arrangement that puts the principal on a four-day week and diverts one-fifth of her salary.

But the biggest benefit of the charter is an intangible, according to the staff. "A sense of ownership," said one. "Employees have taken over the business and invited everyone in. The atmosphere encourages everyone to put more in -- and the students are the winners."

Much like Oetending, **San Francisco's International Studies Academy** is still tightly tied to the district -- and the biggest change they have accomplished is in calendaring and scheduling. The 545 students attend six 55-minute classes on Monday, like most typical high school students. On Tuesdays through Fridays, they have three double-length classes each day. The instructional minutes in each subject area are the same, but the double blocks give teachers a more intensive and cohesive time.

The calendar is also modified, both to fit the college prep goal of the school and the personal lives of the culturally diverse student body. Classes start in mid-August and run until just before Christmas, picking up again in mid-January and running until the end of May. The same calendar is used by the nearby community college, where students are encouraged to take classes for joint high school and college credit. For the many students from Latin America and the Philippines, the month-long winter break allows trips home and reduces the school's problem with absenteeism.

Academy staff say the changes are acceptable to the school district and could have been obtained eventually. But the charter allowed the school to move more quickly to meet the needs of students and teachers.

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has already been an important resource to the other teachers as well as students.[14]

Beyond making charter schools work well, teachers are sometimes instrumental in the formation of charter petitions. One example of a teacher-driven charter school visited by the Little Hoover Commission is Natomas Charter School, a 106-student middle school in Sacramento. Two teachers who believe that a rigid classroom schedule for emerging adolescents is counterproductive decided to design a school around the biological rhythms of students. "Confining them to six or seven periods a day in the classroom is crazy," said one. "They should be out doing things, getting hands-on experience in the real world, doing physical things on farms or at businesses."

The result is a job-shadowing program all day once every two weeks that takes eighth graders off campus and puts them at one of 18 businesses that have volunteered to partner with the school. Students are rated on dress, courtesy and attentiveness, and they report back on their experiences. Seventh graders perform community service projects, such as cleaning up the Woodbridge Wildlife Preserve, during their off-campus time.

In addition, the campus physical education program is supplemented off campus. A nearby racquet ball club has donated their facility two hours a week for students to take tennis, swimming and other physical education lessons.

Natomas also wanted to provide a different work environment for teachers. All of the staff teach part-time, handling four classes of 20 or 21 students. Each of the six teachers is in charge of a specific academic area. The time when students are off-campus is used to perform individualized assessment and learning plans for every student. In turn, students evaluate teachers on a variety of factors.

The two teachers operating Natomas report that administrative responsibilities are almost overwhelming, but both cite immense satisfaction at being able to put their ideas into practice. Similar comments were made by teachers at most sites visited by the Little Hoover Commission. And that is a typical reaction of most charter school teachers, according to Southwest Regional Laboratory surveys:

> *Teachers report some advantages to teaching in charter schools. First, most perceive they have had a great deal of influence on school decisions, especially those related to curriculum and student discipline. Second, many report being less constrained by rules than other teachers in their district.... Third, they enjoy considerable freedom to choose what to teach, to experiment and to teach as they wish. Fourth, they regard charter schools as collegial environments characterized by cooperation among teachers who look forward to going to work each day. Finally, for the most part, high percentages of respondents share with their*

> *colleagues a vision of their school's mission, have a clear understanding of the goals the school is striving to implement, and feel their colleagues maintain high standards and are continuing to learn and grow.*[47]

There are downsides to teaching at charter schools, however. The surveys report a heavy workload, too much paperwork and lack of job security as major concerns of charter school teachers. Initial indicators show that charter schools are successful at enhancing opportunities for teachers -- but if a long-term track record of turnover and burn-out develops, this success may be undercut.

Low-Achieving Students

The charter law identifies low-achieving students as a preferred target of charter schools -- and many do serve this population, sometimes by design and sometimes by chance.

One such school is the Charter School of San Diego, specifically targeted at students who are not making it in the regular school system. Operating out of 22 "storefront" classrooms in a territory that covers 253 square miles, the school serves about 850 sixth through twelfth grade students with an independent study program that is self-paced and teacher-directed. Like all independent study programs, instruction is individualized and students are held accountable for performance in ways that meet their different needs.

The charter school is creative in many ways, including locating vacant office and store sites and obtaining permission to use them at no or little cost. The multiple, dispersed sites mean the program is convenient for students. And with locations inside shopping centers and near movie theaters, easy accessibility and outside attractions often bring students in more often than a traditional campus might.

The school's founder says the major goal is a positive educational outcome for students as soon as possible. Many are rejects from the traditional system -- truants and dropouts -- but some come to the program for the flexibility that allows students to have jobs or vocational training. The number of students who graduate from the program with either a diploma or a General Equivalent Diploma is increasing: four the first year, 44 the second and 59 in the third year of operation.

While independent study programs cater to many students who are low-achievers, several of the large metropolitan conversion schools also serve these students, including Vaughn, Fenton and O'Farrell. Based on statistics gathered from 54 charter schools, about 33 percent of California's charter students test one or more years below norm on standardized tests when they enter the charter schools, 11 percent have been retained in grade at some point and 6 percent are dropouts who have returned to the system.[48]

While the charter law only encourages rather than mandates service to low-achieving students, the fact that one-third of charter students test below norms indicates that charter schools are successfully meeting this goal.

Avoiding Elitism

Critics often express fears that charter schools will only be formed in affluent areas, will create racial segregation and will focus on high-achieving students. At Palisades Charter Complex -- the first charter to encompass a high school and all of its feeder elementary and middle schools -- a major concern before Los Angeles Unified School District would approve the charter was how the complex would continue to make room for minorities bused in once neighborhood white families began switching students from private schools. But to counter declining enrollment and the eventual closure of local schools, the complex has heavily recruited in minority areas. The result has been a drop in the percentage of white students from 46 percent three years ago to 40 percent last year.[19]

In fact, little evidence of any of the feared elitist effects have been seen nationally or in California's first 109 schools, according to experts.

Westwood: A Balancing Act

Statewide statistics show that charter schools are not simply wealthy, white enclaves. But keeping ethnically diverse can require a complicated balancing act.

Westwood Charter School, a 700-student kindergarten through fifth grade school in an affluent section of Los Angeles, has plenty to brag about in terms of innovation. Students are grouped in four multi-age classes that span three grades each and the three or four teachers who oversee each class are organized in collegial families. Thematic instruction weaves the interdependence of social, biological, ecological and cultural systems throughout the curriculum. Under a cooperative learning model, students run the school as a simulated township, with commercial, recreational, governmental and cultural activities. Teachers have half a day each week for collaborative planning, and additional "instructional minutes" are carved out for teacher strategy sessions when students are with computer, music and physical education specialists who come in part time.

But Westwood has a problem that is hanging over its future. When the district began busing children in, the enrollment dropped from 750 to 400 in one year as parents turned to other options. With the lure of the charter-driven academic excellence, those neighborhood families are coming back and there are waiting lists to get in.

When the school applied for charter status, almost half the students were non-white. Today, the white population is approaching three-quarters of the school.

Principal Michelle Bennett recognizes the school's dilemma. The charter law requires schools to give first preference to neighborhood children, who in this case are largely white. But the law also requires each school to have a plan to maintain ethnic diversity -- Westwood's centers on its long-standing relationship with another school in the district, which sends its overflow students to Westwood. Westwood's charter speaks of forming similar partnerships with other ethnically diverse, crowded schools, but with its own space rapidly filling the ability to receive overflow students is diminishing.

Neighborhood preference and ethnic balance. The two provisions of the charter law do not work well together when a school gains a reputation for being academically successful and neighborhood parents clamor to participate. And the question of ethnic diversity at the school will likely come up when the Los Angeles Unified School District reviews the school's charter for renewal in future years.

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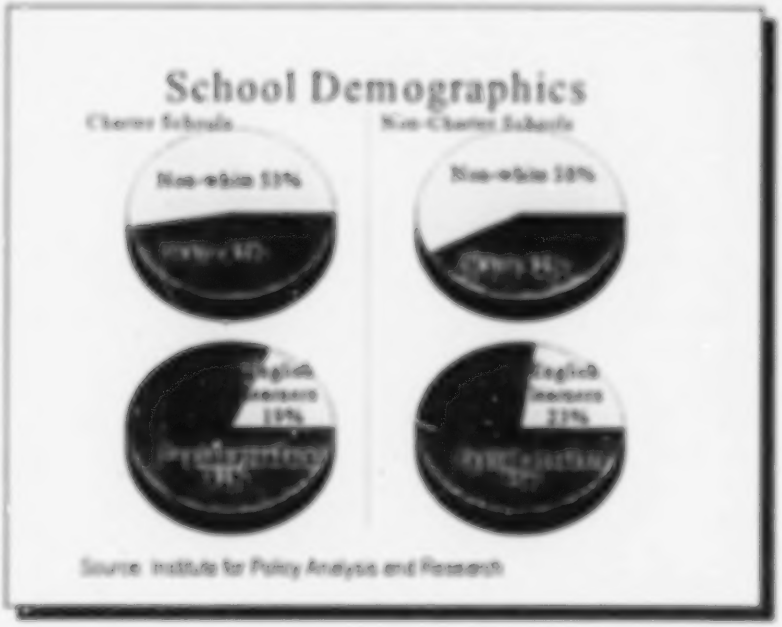
One effort to examine potential race and income problems was made by a team from the Graduate School of Education and Information Studies at the University of California, Los Angeles. Using census tract data from areas immediately around charter schools, they concluded that in general charter schools have been formed in affluent, white areas. The report said that the census tract data is a good indicator of what types of communities shape charters, arguing that communities busing minority or low-income children into a school were less likely to have substantial influence on school restructuring because of the remoteness from their homes.[42]

But the limitation of their data and the narrow use of it makes the conclusion's relevance suspect. For instance, their data shows that of the 10 charters granted in Los Angeles Unified School District, none are in areas with more than 15 percent of the population below the poverty line. But this discounts the fact that the district's two largest charter schools, Vaughn and Fenton, which serve almost 3,000 of the district's 9,300 charter school students, have student bodies almost entirely comprised of children from low-income families under federal guidelines.



Similarly, census tract data for Fenton shows 23 percent whites in the neighborhood, but attendance statistics indicate the school's student body is only 2.6 percent white. Census tract data for Vaughn indicates 16 percent Hispanics surrounding the school, while the student body is 94.8 percent Hispanic.

While on their face, some statistics indicate that only certain types of areas give rise to charter schools, other statistics make it clear that the schools themselves reflect substantial diversity in race and income.

Statistics compiled by the Institute for Policy Analysis and Research indicate that ethnic and English learner demographics are similar in charter and non-charter schools statewide: slightly more than half the students are non-white in both and English learners constitute about 20 percent of the student population.[43]

The Southwest Regional Laboratory devoted considerable effort to analyzing the differences between charter schools and nearby counterparts in terms of minorities, low-income, affluence, English learners, above average achievers, below average achievers, special education, students held back and dropouts. In many instances the research showed that fewer charter schools have a majority of disadvantaged students than do their neighboring schools, but most serve substantial numbers of students that would not be considered desirable. Among other things, the report concluded:

> *...we do not think the data substantiate the sensational charge that charter schools in California are either creaming the most able, privileged students or as a group skimming out those who traditionally have been underserved. Certainly, as a group, they are not cases of white, privileged, above-average students. Indeed the racial and ethnic distributions of charter schools are not different from their counterparts. Moreover, they do serve large concentrations and substantial concentrations of underserved students, even though at lower rates than comparison schools.*[42]

The report also said, however, that there is little evidence that charter schools are "setting path-breaking examples for serving low-income minorities who are below-average students." Some may question whether charter schools should be congratulated for doing as well as traditional schools when it comes to avoiding elitism -- or castigated for not fulfilling higher expectations. But at least they appear to have successfully met the charter law requirement for diversity.

Consequences

As in any controversial experiment, the failure of one or several efforts provides grist for those who want to dismiss the entire concept. But critical elements of the charter school system are accountability and consequences for failure to fulfill commitments. The ability of the system to cope with the occasional failure and take appropriate action -- rather than the incidence of failure itself -- is a good yardstick for judging success.

California's charter system has had one outright failure. Los Angeles Unified School District revoked the charter for Edutrain, an independent study program, after auditors reported fiscal mismanagement and the school suffered steep declines in enrollment, dropping from 500 to 100 students in one year.[43] The closure of the school left $600,000 in debts that neither the State nor the district are willing to pay.[44]

The Edutrain scandal, which included the lease of a $39,000 sports car, provision of a bodyguard and a housing subsidy for the school president, is often cited by those who believe the freedom granted to charter schools is an open invitation to fraud.

But those who support the charter movement point out that action to shut down the school, strip authority away from the charter school operators and stop expenditures occurred far more rapidly than action is ever taken in the regular school system. For instance, the school district in Richmond that filed for bankruptcy protection several years ago and cost the State millions of dollars in unpaid debts was a well-known financial mess for years before action was finally taken. Similarly, school districts are allowed to deficit spend for several years without substantial consequences other than a requirement to produce plans to do better in the future.

No charters other than Edutrain's have been revoked permanently, but several schools have had faltering beginnings that have required sponsoring districts to exercise patience, modify conditions and evolve new processes. The Harriet Tubman Charter School in San Diego is one example. Faced with a proposal that embraced a Waldorf-inspired curriculum, the sponsoring district decided to house the charter school at a site that was being reopened to handle overflow students from other neighborhoods. As a result, many parents faced busing and an unfamiliar educational approach all at once, even though attendance at charter schools is supposed to be voluntary and through self-selection. Some parents complained, and some charged that the school was teaching religion, an apparent misunderstanding about a teacher's lessons on ancient civilizations.

Santa Barbara: Work in Progress

Not all charter schools enjoy a happy partnership between parents and teachers from the beginning. Tension over conflicting goals, combined with financial pressures ... mean a rocky start and uncertain future for some charter schools.

Santa Barbara Charter School in Goleta has had its share of growing pains but appears on course to developing a successful alternative education program. With an eventual goal of kindergarten through eighth grade, the charter school has grown from K-3 in 1993-94 to K-5 for the 1995-96 school year. Enrollment is 145 students (including 33 home-based students who attend class once a week) -- up from 108 last year.

Borrowing elements from humanistic, Montessori and Waldorf theories, the teachers have created a curriculum that is child centered and child directed, with a heavy emphasis on arts, self-esteem and respectful relationships. Self-expression is encouraged and children are empowered to direct their own learning. Teachers strive to make classroom work both challenging and relevant to real-world life. Classes are small and span multiple ages and abilities. Specialists are brought in to teach music, drama, Spanish and fiber arts.

Back-to-basics it is not. And as one staff member explained, that was a problem for some parents who felt the curriculum was not strong enough. For instance, those parents challenged the teachers' choice of learning math through using manipulatives rather than memorizing times tables. Other parents were concerned that the school spent too much time on non-traditional holidays that came from other cultures.

Gradually the teacher-parent committees that oversee the school have resolved the problems, and unhappy parents have moved on while others have come to take their place. "Our charter school may not have been their first choice -- it was better than what their neighborhood school might offer, but it still was not what they wanted," the staff member explained.

The growing pains are not over, however. The school is tucked into small quarters on the campus of an expanding middle school that will soon edge them out. On a tight budget of only $3,000 per student, from which the school pays the district rent, utilities and overhead for payroll services, the school faces the chore of finding bigger but affordable space soon.

Rather than revoking the charter after the first year, the district surveyed parents over the summer and found that 80 percent wanted to return. The district reconstituted the school site, opening a regular school for 120 students there and capping the Waldorf school at 240 students.

Observers say that the experience demonstrates more about how important parental understanding and choice is when alternative schooling is involved than about any flaw in the charter school mechanism. The charter school has continued to work with parents, and staff reports a waiting list for enrollment at this point.

Another troubled school was the San Francisco Charter Early Childhood School, a kindergarten-through-second-grade school based on the child-centered, creative-arts-based philosophy of Reggio Emilio in Italy. The teacher who envisioned the school brought in parents who were used to functioning in the collaborative co-op nursery school world. The teacher was headed in one direction, and parents wanted to go in another direction -- plus some believed that the teacher was using inappropriate disciplinary methods. The dispute was elevated to the sponsoring district board, where the teacher was absolved but also was encouraged to move on.

The philosophical differences led to serious financial problems: enrollment dropped because of the turmoil, a substitute had to be paid at the same time the teacher's contract continued, and the school was told it had to alter its attendance recording methods in a manner that left less funding.

Rather than revoking the charter, however, the sponsoring district created an oversight, receivership role and the parents operating the school have worked to stabilize the finances and curriculum. While prospects are brighter, the parents express concern about the school's long-term future because of burnout that may come from the intensive volunteer activity required: 16 hours a month (an amount greatly exceeded by the unpaid parent board members and on-site directors). One director said that without committed parents who understand the "touchy-feely" nature of the curriculum and who are used to the demands made by parent co-op organizations, the school will have a difficult time recruiting students to fill in behind children who grow up and move on.

There is no guarantee that Edutrain will be the only charter school to fail, just as there is no guarantee that schools that have been given a second chance will survive troubled beginnings. But one thing the charter law has demonstrated is that there is adequate flexibility to cope with problems and respond to failure.

Beyond Success

The separate evaluation efforts being carried out by several organizations provide anecdotal evidence that charter schools are, in many instances, doing well. They also provide statistical evidence that some of the goals

-- such as innovation -- are being accomplished more easily than at non-charter schools. And they hold at bay the intuitive reflex that charter schools, because of the work and expertise involved, will end up as segregated enclaves for the affluent.

During its 26 site visits, the Commission took note of several common threads that indicate charter schools are having a positive impact. Almost all of the schools have a high-energy aura and significant involvement by the surrounding community. By and large, schools appear to be driven by committed individuals with leadership ability and the skill to involve all the stakeholders -- parents, community leaders, students, teachers, other employees -- in a shared vision of what it takes to educate children. And pride in accomplishments was extensive and shared by those running the school and those using it.

Without training and support services, these charter school attributes may not be transferable to other school sites, since they are so directly linked to innovative individuals. But the Commission found significant evidence that the charter school movement is a mechanism that encourages local leadership for improving education of children.

Success in Full Bloom

Creating a model school under the best of conditions is difficult -- and no one suggests that Yvonne Chan started with the best of conditions.

Vaughn Street Elementary School sits in the midst of a crime-ridden area and has a student body that is so disadvantaged economically that everyone qualifies for free lunches. The rate of non-English speakers is high and the academic performance has been low for years. A deteriorating campus was so jammed with the school's 1,200 students that three rotating schedules were used to stretch the capacity of classrooms.

Vaughn was not a setting where anyone was expecting success to flower -- but it has. Today the school has new facilities built in record time and paid for with savings squeezed from administrative costs. Attendance -- the essential element that drives funding -- tops 99 percent. The surrounding community is actively involved, businesses through grants and partnerships, residents through language and parenting classes. Teachers work hard and receive higher pay than their non-charter counterparts.

Principal Chan, faced with desperate circumstances, saw the charter law as a chance to get out from under rules and paperwork and focus on making education work. Her attack has been multi-faceted. She has argued with the sponsoring Los Angeles Unified School District at every turn for more funding, less costs and fewer regulations. She has networked extensively with other charter schools, chaired the State's advisory committee on charter issues, lobbied for law changes and lectured at the drop of an invitation. She has begged for grants, solicited donations of technical assistance and negotiated for bargain rates on insurance.

The result -- a school and reputation that she can be proud of. But Chan still worries. To be so far out front and to be so highly visible makes her every move subject to scrutiny -- and there are many gray areas of charter school law. With the charter movement still in an infant stage, Chan believes that any failing can be exploited by critics and endanger future efforts. For instance, when test scores sank after initially rising, the attacks were immediate, although Vaughn could show that more students were tested than ever before and many special education students were mainstreamed, both factors that explain lower test scores.

And then there is the inevitable question: Is Vaughn successful because it is a charter school or because Yvonne Chan is there? Chan smiles at the implied compliment, but insists that the energy and commitment she brings to the job can be found throughout the education system. She firmly believes that the charter movement opens the door for success to occur.

This particular avenue for encouraging local leadership is now stalled. The State's cap has caused some proponents to put charter efforts on hold, although several have

been forwarded to the State for numbers by willing sponsoring districts despite the fact that all original numbers have been issued. Technically, the cap has not been reached since the law says that only 100 charter schools may operate in any school year -- and not all of the schools that have been granted numbers are up and running yet. As this report was being written, the State Board of Education was assigning charter numbers on its own under authority it has to waive large parts of the Education Code. But opponents have threatened lawsuits, if not against the State then against school districts who approve further charters. Opponents also argue that no further charters should be granted until the Department of Education assessment is made to the Legislature on January 1, 1999.

But proponents of the charter movement point out that the department has yet to begin its assessment, and that no direction has been given by policy makers to shape how the assessment will be conducted or what it will include.

In the face of early indicators of success, there appears to be little value to waiting before allowing charter options to continue to expand. While this could be accomplished by Board waiver, a more stable situation would be created by the Legislature taking action on the cap. At the same time, policy makers could be more specific about expectations for charter school success, district oversight and statewide testing.

Recommendations

Recommendation 1-A: The Governor and the Legislature should modify the charter school law to eliminate the cap as a means of encouraging local leadership to improve education.

The law's author, former Senator Gary Hart, put the case for eliminating the cap succinctly in a recent newspaper commentary:

> *At a time when enthusiasm for public schools is low, it is irrational to block the growth of a zero-cost program that is reinvigorating schools up and down the state. ...California earned a reputation as an innovator by being willing to take chances. We took a chance on charter schools, and evidence is pouring in that they work. With the 1998 legislative session under way, it is time to launch the next stage in the charter schools odyssey.* [11]

Local leadership and community involvement can be significant factors in the improvement of education. The charter school mechanism opens the opportunity for both -- and, therefore, should not be blocked by an arbitrary ceiling.

Recommendation 1-B: The Governor and the Legislature should fund and set parameters for the required 1999 assessment of charter schools by framing the

issues, describing the array of factors to be examined and naming the types of experts who should be involved in the assessment process.

The present requirement for the Department of Education to assess "the educational effectiveness" of the charter school approach is a vague direction that may not yield a product that will satisfy policy makers' concerns. A more helpful approach would be to list factors to be examined, including change in assessment rankings, degree of parental satisfaction, demonstration of economical value, level of innovation, evidence of increased educational opportunities for teachers, increased focus on low-achieving students, diversity and effective oversight by districts. The law should also specify experts to be involved in the study, including representatives of teachers, administrators, parents, active charter schools, academic institutions, the State Superintendent of Public Instruction and the State Board of Education.

Recommendation 1-C: The Governor and the Legislature should require sponsoring districts to consider the quality of charter provisions as a criterion for approval and monitor annual reports of charter school progress in goal achievement.

Because charter schools are supposed to provide documented achievement of goals in return for their unlimited flexibility, it is critical that charters contain clear performance goals and assessment plans. Present charters, however, are often vague. In addition, school districts should monitor charter school performance closely enough to provide helpful guidance, if needed, well before charters are brought up for renewal or revocation.

Recommendation 1-D: The Governor and the Legislature should clarify the charter law and the new statewide testing law to ensure that charter schools participate in statewide testing, benchmarking and/or achievement standards systems.

The present uncertainty about whether charter schools are included in the new testing law clouds the schools' ability to share in test funding and may provide an opportunity for schools that dislike normative testing to avoid the process. While many assessment tools are flawed and no single indicator should be used to judge educational performance, it is important for charter schools to participate along with other schools in whatever statewide system is created.

Charter Autonomy

- ✓ *The State Department of Education has declined to fund charter schools directly, as the law requires.*
- ✓ *Until recently, the department has given charter schools scant technical support but that posture appears to be evolving under the department's new leadership.*
- ✓ *Charter schools chafe under district-imposed restrictions but districts are concerned about their liability for actions over which they have no control.*
- ✓ *Independent study presents opportunities for abuse but under the charter system there is an obligation to produce evidence of academic achievement.*
- ✓ *Some districts are influenced by unions to block or restrict charter schools.*

Charter Autonomy

Finding 2: The lines of authority between charter schools, sponsoring districts and the State Department of Education are not well defined, causing conflicts and confusion.

In its purest form, the charter concept rests on the principle that charter schools are independent from both local and state bureaucracies, except for oversight regarding results. While California's law speaks to that degree of independence -- stating that charter schools should be treated as separate entities and should receive funding directly from the State -- the reality is far different. Both the State Department of Education and sponsoring school districts have taken actions that constrain the ability of charter schools to operate freely.

The State Department of Education has 1) declined to fund charter schools directly; 2) created confusion by treating similar schools differently; 3) interpreted the law in ways not intended by the Legislature; and 4) in the past, provided only lukewarm support for those seeking technical assistance.

Some school districts have 1) used the charter mechanism to generate extra revenue for the district; 2) held charters hostage to continuing controls as the *quid pro quo* for charter approval; and 3) allowed unions to dictate charter approval terms and conditions.

As a result, many charter schools have only limited freedom to experiment and their operators devote an enormous amount of energy to battling district and state bureaucracies over rule-based controls. This is

contrary to charter law intent, which describes a goal of providing a mechanism to move from rule-based to performance-based accountability.[66]

Direct Funding

The charter school law directs the State Superintendent of Public Instruction to make apportionments to each charter school in amounts related to the number of students attending and the number of students eligible for special education funding, as well as a share of categorical funding. To satisfy constitutional provisions, the law further states that charter schools are deemed to be "school districts" for purposes of funding and are deemed to be under the control of public school officers.[67]

Despite the clear intent of the Legislature, charter schools have never received their funding directly from the State. Instead, the funding is filtered through the sponsoring district, in many cases causing disputes about the amount that should be earmarked for the charter school and giving districts leverage that, from the charter school's perspective, is unwelcome and counterproductive.

The Department of Education has said it is unable to pay the charter schools directly. It has been difficult for the charter schools and others -- including the Little Hoover Commission -- to get a clear answer as to why this is so.

Soon after the charter law was enacted, the department said that it did not have the resources or capability because of an antiquated bookkeeping system to write 100 checks and send them to the charter schools separately. As an "administrative convenience" that the department argued would have no affect on charter schools, the department said charter school funds would simply be bundled with other district funds and sent to the sponsoring district for distribution.

This argument made little sense to those familiar with the process since the Department of Education does not write the checks that are distributed. A unit in the department determines "apportionments" -- the share of specific funds that is owed -- for each of the State's 999 school districts and 58 county offices of education. The department then notifies the State Controller's Office, which writes bulk checks by county. County offices of education then break down the funding according to the apportionments listed by the department and send the appropriate amounts to school districts within the county.[68]

Other arguments advanced by department personnel for not paying charter schools directly included that the software used by the department does not allow it to figure out the apportionments for charter schools. In some instances where categorical formulas derive from census tract data or county-wide information, it would be difficult to set

up the computer programs to treat the charter schools as if they were simply another 100 distinct school districts.

While this may be true for a limited number of specific types of funds, almost all funding that charter schools are eligible to receive has been computed by the department in a segregated manner each year, according to the department's Education Finance director.[69] This information is forwarded to counties and districts, but is not sent to charter schools. The director maintains that he does not have enough staff and resources to provide such information directly to the charter schools -- but that it is easily available. Many charter schools have said, however, that they often are unable to obtain accurate information about how much they are owed from either their districts or the department.

More recently, one department document differentiated between the duties of "apportioning" and "distributing" funds, implying that by breaking out the amounts owed to charter schools on paper the department had complied with the law. Those who crafted the charter school law, however, point to the fact that "apportion" is the phrase used in other education statutes to direct the distribution of money. In addition, the department's own top lawyer agrees that the department is not complying with the law, but insists that it has not been given the resources to do so.[70]

The importance of the funding mechanism cuts across many issues for charter schools, affecting independence, resources and cost-cutting opportunities.

The importance of the funding mechanism cuts across many issues for charter schools. Told to operate independently, many cannot obtain accurate and timely information about how much funding they can count on -- making it difficult to plan and carry out an educational program. Parents in the Suisun-Fairfield Unified School District, for instance, were told by the board that they must have a fully fleshed out budget to show how they would operate -- but the district's financial people could not provide the parents with much of the per-school information required to build an accurate budget. Other charter schools, such as Lindale Charter School in Santa Cruz County, have sought a share of specialized funding and have been told by their district that it was up to the State Department of Education -- and been told by the department that it was up to the district.

Although the charter law is supposed to be revenue neutral so that charter students are covered by amounts equal to other students, charter schools find that often they are operating with even less available funding than other schools that do not have to argue with the district for a share of textbook, summer school or other specialty funding. And the fact that the money goes directly to the district often means that an amount not necessarily agreed to by the charter school remains in the hands of the district.

Critics have argued that continuing to funnel the money through the districts is a necessity to ensure funds are not misused and that accountability is maintained. A favorite supporting argument that the critics produce is that Edutrain, the only charter that has ever been revoked, left a fiscal mess behind. But like all other charter schools, Edutrain never received direct funding from the State -- and financial problems occurred anyway. Keeping the district in the financial loop does not preclude poor spending decisions. And it ignores the fact that the charter law calls for a different kind and level of accountability: Charter schools are supposed to document their fiscal responsibility annually in an audit and sponsoring school districts are supposed to monitor charter school results.

Some policy makers would like to see charter schools made directly responsible for financial reporting to county offices of education, as school districts are. Under a process identified by the enabling legislation, AB 1200, school districts complete copious financial forms to prove to county offices of education that they are being fiscally responsible. One of the crafters of the charter law believes, however, that the paperwork-intensive AB 1200 process is exactly the kind of overkill red tape charter schools were supposed to escape.[21]

Regardless of how fiscal accountability should be maintained, how charter schools receive funding should not be at issue since the charter school law has specifically called for direct payments -- and there is no indication that funneling money through the districts is an effective check-and-balance.

Differing Treatment

Department of Education personnel at all levels make frequent reference to the fact that the charter law gives the department no role and no resources to be involved in the charter school program. But that has not kept the department from issuing advice letters and opinions that result in similar schools being treated differently.

A case in point is Horizon Instructional Systems in Placer County. A program that uses independent study methods, Horizon targets home schooling students, offering parents public school direction, support and oversight outside of a daily classroom experience.

The charter school came to the attention of the Department of Education in June 1994, and after an informal assessment the department informed the sponsoring district and the county office of education that Horizon appeared to be out of compliance with statutes that limit independent study programs 1) to enrolling only students from the home county and contiguous counties and 2) to providing services and materials only if substantially similar services and materials ("things of value," according to the statutory wording) are provided to all district students. Such non-

compliance had the potential of requiring the district to reimburse the State for all funding received for students enrolled in Horizon.[72]

(In a separate issue, critics of Horizon have contended that the school was allowing religion to be taught. At the request of parents, the school was purchasing textbooks published by organizations with religious affiliations. The school changed its policy after the county office of education told school officials informally that such purchases could be viewed as violating the anti-sectarian provisions of the charter law. No formal findings were ever issued by the department or raised in department letters to the school.)

A high-profile controversy ensued, including the temporary revocation of the charter, its reinstatement, conflicting legal opinions from the Legislative Counsel, Attorney General and Department of Education, threats about the district being driven into bankruptcy and children's education being interrupted -- and an eventual agreement to provide funding for the already completed school year as long as Horizon changed its methods in the future.[73] Relationships between Horizon officials, the district, the county office of education and the department continue to be strained, with Horizon charging that it cannot get clear answers about what it can and cannot do. Department officials say it is not their responsibility nor are they able to give Horizon a laundry list of what is allowed under the law.[74]

Potential for Abuse

Many people have expressed concern that charter schools that use independent study methods hold a great potential for abuse. Critics worry that public funds will be funneled to parents as a subsidy for home schooling or religious training, that programs allow students to skate by with little effort and even less academic gain, and that districts will use the programs as money-makers.

All of these concerns are legitimate. Unfortunately, they are just as possible in independent study programs that are not run by charter schools, Department of Education officials acknowledge.

The department points out that there is no special program with earmarked funding; independent study is a teaching "modality" rather than a specific program. A district that chooses to have such a program receives per-pupil funding equal to that it receives for a student who it houses in a classroom under full-time teacher supervision.

Some districts have created independent study programs to bring home-schooled students back into the public system, providing supervision by a certified teacher and continuity of curriculum. Others are focused on drop-outs, problem students, teenage parents and other children with special needs.

Regardless of a district's avowed focus on students and its expressed good intentions, it is difficult to deny that such programs can be cash cows. A single teacher may supervise 50 students and there is no facility cost -- so each student typically represents a net gain for the district, providing revenues that can be used to cover shortfalls in other academic programs. Some schools use an independent study program to continue receiving per-pupil funding when students must be away from the classroom on an unexcused (non-illness) absence for an extended amount of time.

While independent study can present opportunities for abuse regardless of who is operating it, the charter school type has one advantage. Unlike regular schools, charter schools are required to produce proof of academic results. This may prove small comfort, however, since the entity charged with monitoring that proof is the same district that may be stretching its budget with independent study-generated profits.

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The point here, however, is not to dissect the details of the Horizon case. What is worth noting is that similar schools, both charter and non-charter, have carried out the same activities as Horizon without attracting any attention from the Department of Education or coming under threat of losing funding. Among charter schools, many independent study programs observed by the Little Hoover Commission make resources available to students that are not widely available to other district students, including field trips, lessons from private-sector businesses, loaned computer equipment and individualized instruction (which is the whole point of independent study).

In another example of differing treatment, a school similar to Horizon received department encouragement that it was differently classified and, therefore, not subject to the same limitations as Horizon. Choice 2000 On-Line School in Perris is a school that provides lessons for students via computers, modems and phone lines. Students access lessons at any time or can join in "classroom" discussions at set times. Reports and papers are written on computers and submitted across telephone lines through Internet e-mail. The school "facility," which was visited by the Little Hoover Commission, is office space inhabited by teachers, computer equipment, telephone switching systems and office equipment.

In a November 1994 letter, a Department of Education analyst gave the opinion that such a school could be classified as distance learning rather than independent study -- and that, therefore, independent study restrictions would not apply.[76] According to Education Code Section 51865, distance learning is instruction in which students and teachers are in different locations and interact through computer and communications technology. Department officials have indicated that typically students are in a classroom setting and computers or television sets are used to bring in the teacher or lesson.

According to the department's top legal adviser on independent study, schools are classified as using independent study when two elements exist: 1) Student "attendance" is counted by the time value of work accomplished rather than by direct time on task (or seat time, as it is known in regular classrooms) and 2) teachers provide general supervision rather than immediate supervision.[77] Both conditions apply at Choice 2000, where students are widely dispersed, work on their own with only general supervision and are credited according to work completed (although they are required to log-on to a computer for 10 hours a week). Department officials were unable to explain why Choice 2000 and Horizon are treated differently.

In yet another area of differing treatment, a Nevada County district was told that it did not appear to be legal for a charter school sponsored by one district to have its facilities in another district, unless the second district is in agreement.[77] The Twin Ridges district has granted a charter to a Waldorf school that could only find a workable site in a neighboring city and school district. The first school ever granted a charter in the state, San Carlos Charter Learning Center, housed its students in its initial

year in a different district because of a lack of available space, but the issue was never raised as a matter of concern, according to charter operators.

Department officials say that because they have no mandated role in monitoring or advising charter schools, they only become involved when matters are brought to their attention or they are asked for an opinion. Their selective involvement, however, results in similar charter schools being treated differently and obtaining different answers about what is allowable under the law.

Legal Interpretations

In at least two areas, the Department of Education has interpreted state laws in a way that differs from what many believe policy makers intended. The result is unintended constraints on independent study programs and charter schools operated by county offices of education, two of the types of charters that most often target low-achieving students and drop-outs.

As noted in the previous section, independent study programs may not provide "any funds or other thing of value" unless substantially similar services and materials are provided to all district students.[78] Known as the thing-of-value provision, the statute was enacted in response to instances of districts offering "bounties" to parents to sign their children up in independent study programs and providing them with benefits, such as free video and computer equipment. Although the problem arose in non-charter settings, the statute specifically stated that the provisions could not be waived and do apply to charter schools.

The Department of Education has chosen to apply an extremely restrictive interpretation of the statute -- an interpretation that has been contradicted by the State Attorney General and the legislation's author. Perhaps more importantly, it is an interpretation that defeats not only the purpose of charter schools but also the purpose of independent study.

The department's interpretation defeats not only the purpose of charter schools but also the purpose of independent study.

In an early version of "operational guidance," the department found that teachers have some flexibility to make individualized adjustments to books and instructional materials allocated to particular students. But teachers should not provide "to anyone connected with a given pupil's independent study agreement anything that is not substantially the same in type, amount, duration and location as what that child would receive if he or she were in a classroom of the district."[79]

Horizon and other charter schools report being told that they cannot provide computers, pencils, art supplies, field trips, gymnastics lessons and small-group meeting times (the argument on the latter is that it constitutes a reduced class size that is not available to regular classroom students). The department refused to comment on any list of "things of value," saying instead that each situation requires judgment: If something is not equally accessible to students in the classroom, no matter what it is, then independent study programs should not be providing it.

Both the Attorney General and the legislation's author find the department's stance out of line. Writing to the State Superintendent of Public Instruction, former Senator Gary Hart said:

> *This language was drafted in consultation with Legislative Counsel and counsel to your department to prevent 1) a gift of public funds, 2) inappropriate use of public funds by private individuals or schools, and 3) expenditure of public funds for sectarian purposes. I understand that members of your legal and fiscal staff are now interpreting the 'other thing of value" prohibition to extend well beyond the legislative intent as outlined above...*[61]

Hart said he understood that the department was advising charter schools that they could not purchase instructional materials, loan computers or provide "10 pencils for use by its students" unless classroom students had access to the same items. He continued:

> *This interpretation seems specious on its face because we certainly do not hold regular schools to such a quid pro quo provision of services. Moreover, this kind of interpretation directly contradicts the intent of the charter school act. The legal opinion of the department's counsel will mean less flexibility for charter schools than for 'regular" public schools -- which, of course, is the exact opposite of what was intended.*[62]

The Attorney General found that "absurd consequences" would arise from an interpretation of things of value that precluded independent study programs from providing specialized instructional materials and educational aids. Noting that the legislative intent of independent study is to expand educational opportunities and provide an enriched curriculum, the Attorney General said:

> *It would be absurd to suggest that the educational settings of a regular classroom and of an independent study program provide identical learning opportunities. The resources of the one are inherently different from the other. Section 51747.3 may not be construed as limiting the educational resources of an independent study program expressly intended by the Legislature to provide 'assignments extending the content of regular courses of instruction" in subjects 'not currently available in the regular school curriculum.'*

> *...[T]he language was adopted to prevent schools from offering 'sign-up bonuses' to the parents of home study children in order for the schools to obtain state funding for the attendance of the children in their independent study programs. The prohibition was intended to prevent schools from offering incentives unrelated to education, not to preclude schools from spending funds on special educational aids and materials for independent study students.*[92]

The department was unimpressed by the Attorney General opinion. In a written analysis of the opinion, the department's deputy general counsel said the opinion leaves nothing subject to the statute's limitation since almost anything can be regarded as being related to education:

> *If laptop computers and similar learning aids are related to education and therefore not subject to this limitation, are not VCRs (on which one may view educational videos), private (or nearly private) music and dance lessons, family admissions to Marine World Africa USA, and so forth also related to education?*

> *This asserted exception to 'other things of value' swallows the rule and, by further logical extension, leaves no basis for distinction between funds and things. This opinion would allow any funding to be provided to the parents of children on independent study so long as the funding was for something related to education. How does this differ from providing a voucher?*[93]

The department is persuasive in arguing that there is no sense in having a limitation that applies to nothing. But the department appears to miss the similar lack of sense in having a limitation that covers everything. By its nature, independent study is a different approach to education that can be expected to require different resources. In fact, the independent study statute makes that clear in expressing the intent of the Legislature that appropriate services and resources be provided to enable students to complete independent study successfully. This includes existing services and resources available to all other pupils in the school, as well as other services and resources, including an assessment by qualified personnel about the most appropriate individualized plan and necessary resources to meet the student's needs.[94]

There is no sense in having a limitation that applies to nothing. But the department appears to miss the similar lack of sense in having a limitation that covers everything.

The "thing of value" interpretation is not the only area where the department has moved to limit charter schools. The department has told county boards of education that they do not have the same latitude as district-sponsored charter schools under the charter statute. The funding mechanism in the charter law only addresses a method for calculating a

share of district revenue for charter schools. County offices of education, which receive funding under different formulas than districts, have been told that their funding mechanism -- and the restrictions that accompany it -- remains the same, regardless of charter status. This includes requiring certified teachers and a minimum number of instructional minutes. The restrictions make the county-run charters less flexible -- and there is nothing in the charter law to indicate that the Legislature intended to create a second-class charter category.

Lukewarm Support

The Department of Education has provided neither consistent nor generous technical support services for the charter school movement. Until recently, charter issues have been tucked away in a unit of the department that was focused on other matters. Charter school proponents, who have had difficulty getting answers to questions, perceive the department as a hindrance at best and an active opponent of charters at worst. Some have charged that department personnel are openly hostile.

The Little Hoover Commission did find some evidence of resistence to the charter concept. One top official, who regularly issues legal memos on charter school issues, told Commission staff that there is nothing that charter school teachers can do in the classroom that regular schools cannot already do and that the charter freedom is more perception than reality.[6] While it is true that there are waiver processes for accomplishing many innovations, regular schools cannot avoid a host of state restrictions, including having students under the direction of certificated teachers and meeting minimum numbers of instruction minutes per day.

The same official and another top department administrator insisted that no real innovation is going on in charter schools, although both said the department has neither time nor resources to examine the schools to see what their programs are like.

Charter school operators also complain that they are told what they can or cannot do by low-level department employees -- but cannot obtain the verbal admonitions in writing. Because schools often feel that their funding is vulnerable, many are loath to ignore these verbal directives even when they believe they are wrong.

In a more concrete demonstration of the department's lack of support for charter schools, many had to wait almost two years for waiver approvals that they were assured would be approved without problems. Until the waivers were approved, many sponsoring districts feared that current year funding might be recouped by the State to make up for funding from past years that was later determined to be allocated incorrectly. Initially, many charter schools handled attendance and per-pupil funding in a manner that was later overturned by new department regulations. A

waiver process that required action by the Superintendent of Public Instruction was established to cover schools that were retroactively out of compliance. Several charter schools complained of their futile attempts to have action taken on the waivers. One said its sponsoring district attempted to impose further fiscal controls, using the lack of an approved waiver as the reason.

While the department can correctly point out that the Legislature gave it neither a mandate nor resources for assisting charters, the department can rally resources for projects it believes are a priority. For instance, the current push for "Challenge" school districts is neither funded nor mandated by the Legislature, yet the department is devoting many personnel hours to developing the program.

The department's posture on charter schools appears to be evolving, however. The law was created at a time of significant turmoil for the department. During the initial years of charter expansion, the long-time Superintendent was forced to resign in the wake of a court conviction, the Legislature rejected his gubernatorial-appointed replacement and for many months the department was under the direction of an interim Superintendent.

The new Superintendent is openly supportive of charter schools and has taken steps to demonstrate that support. She formed an advisory committee of charter school operators, and on the eve of their first meeting provided bulk approval for all of the waiting attendance waivers. She restructured the department's charter school unit -- a single person who answers questions and tracks charter school issues for the department -- placing it in the organization where there would be more visibility and attention paid to the concept. And, after receiving positive input from her advisory committee, she supported the State Board of Education's desire to adopt a policy allowing waivers of the 100-school limit.

Like any fledgling concept, charter schools require some nurturing in the form of information, advice and sharing of experiences. While the Department of Education has stinted on such assistance in the past, a new and more helpful attitude may be developing.

District Issues

The relationship between charter schools and their sponsoring districts is often an uneasy one. Without many working models, no real statutory direction (by design) and an uncertain feel for the future, most charter schools and districts work their way to an agreement that is often unsatisfactory for both.

From the charter schools' perspective, districts hold the upper hand in any negotiations over charter provisions, forcing charter founders to agree to conditions that they would not freely accept except as the price

for charter approval. Districts sometimes treat the charter schools as revenue producers, skimming substantial sums off the top of their revenues. And active and aggressive unions can cause districts to impose the same conditions on charter schools that exist at regular schools.

The districts, meanwhile, feel that they are caught between a law that says charter schools have absolute freedom and the belief that they maintain some liability for charter school actions. In addition, district boards are unused to thinking of themselves as purchasers -- rather than micro-managers -- of educational services. The ability to move to an outcome-based accountability system comes hard when the habit of top-down control and rules-based accountability is deeply ingrained.

As explained earlier, charter school funding arrives through the sponsoring district. Even the charter schools that have won the most fiscal autonomy from their district -- Vaughn and Fenton -- complain about not having complete control of funding and having to argue with their district to win their share of all funding sources. Most schools, which have far less autonomy, see some set percentage of their funding held back. The amount that districts keep varies widely. At charter schools visited by the Little Hoover Commission, there were numerous examples:

- At Choice 2000 in Perris, 20 percent of their funding stays with the district for in-service training, books and support, 10 percent repays the district for start-up costs and another 10 percent is retained by the district for indirect costs, such as payroll processing.

- At Natomas in Sacramento, 42 percent of the budget goes to the district, which includes rent, utilities and maintenance for the campus facility. The cut leaves little for the teacher payroll -- and nothing to hire a non-teaching administrator.

- At Cato School of Reason in Phelan, the district keeps 10 percent off the top. But it also uses the number of students brought into the district's enrollment by the independent study program to increase its applications for block funds the charter school doesn't share in. That means the district is making money, the school's founder contends, between the larger enrollment and an average district overhead of only 6 to 8 percent.

- Other independent study programs reported arrangements where the district kept one-third of the funds and the charter school took two-thirds.

While many of the charter schools do not seek full fiscal autonomy, most would prefer to receive their funding directly without argument over what they are due, and then purchase any needed services from the sponsoring district. Such an arrangement would encourage districts to price the cost

of their services more competitively to keep the charter schools from looking elsewhere.

Almost as upsetting to charter schools as the fiscal haggling are the conditions often placed on their programs. Some districts have required charter schools to cap their enrollment, the situation for the Harriet Tubman Charter School in San Diego and the Nevada City Performing Arts Charter School. Other charter schools have been required to stick with district calendars, pay rent for the use of facilities, participate in special education funding assessments, buy expensive liability insurance and use maintenance crews provided by the district.

More onerous yet, in the eyes of many charter founders, are requirements that charter schools follow the same working rules and conditions that districts have agreed to in collective bargaining with unions. At many of the charter schools visited, administrators told the Commission that changing the way teachers are hired, qualifications for employment, the hours that are worked and tenure guarantees is critical to the successful shaping of new approaches in the classroom. According to experts at the Educational Excellence Network:

> *No aspect of a school's management is more crucial to its effectiveness than how it handles staffing -- and nothing is more surely fatal to performance-based innovation than attempts to preserve staffing rules that disregard performance.*[44]

A Supportive District

Not all districts are cool to the idea of a charter school. One example of a mutually supportive partnership is the State's first charter school and sponsoring district: San Carlos Charter Learning Center and the San Carlos Elementary School District.

Even before the charter law was passed, the district's superintendent was following its legislative progress with excitement about the prospect of designing the ideal school. Working with a group of community leaders, he put together a 25-page charter, gathered the signatures of 20 percent of the district's teachers and was ready to go the day the law became effective. From there, town hall meetings brought together people who fleshed out the concept and gathered $275,000 in private-sector grants.

The result is an elementary school that serves 80 kindergartners and fourth, fifth and sixth graders. Using a thematic approach and multi-age groupings (including a "kinder-buddy" system to connect the younger children with the older ones), the school is described by its operators as parent-led and dominated. A before- and after-school day care operation ties its activities into the core curriculum with field trips and hands-on experiments. Teachers have four hours a week for preparation and collaboration, and instructional assistants in each class allow for individualized attention. Parents are asked to volunteer 60 hours a year.

The school is completely autonomous, handling its own maintenance, printing and other expenses. It rents a site from the district that had previously been rented to a private school, paying market rent so the impact on the district is neutral.

The school is working closely with the district, however, co-developing a strong, resource-based curriculum in a collaborative process. The vision from both sides of the partnership appears to be aligned. The district superintendent credits the school's success to the fact that everyone is "working on the same page with the same goals" and the school's operators see the facility as a "research-and-development facility for the district."

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But for many unions, protecting the rights and benefits of already-existing workers is a key issue. Unions at the national and state level have expressed qualified support for the charter concept -- the qualifiers being the ability of the unions representing teachers and staff to continue to have a strong role on what happens at schools. Charter experts say the latest maneuver by those who previously opposed charter laws is to embrace weak laws. Said Ted Kolderie at the University of Minnesota's center for policy studies:

> *It's a totally different discussion this year. It means nothing to say you are for a charter law. Everything depends on how you define it. The whole legislative struggle is over the provisions.*[87]

Louann Bierlein, an education policy analyst at Louisiana State University agrees:

> *Initially, those opposed to charters were trying to kill bills. This year, they are now engaging in the dialogue and focused on passing weaker versions.*[88]

In California, unions have turned to legal action at least twice to fight charter issues. The California School Employees Association filed an unfair labor practice charge against the Desert Sands District, saying the district violated the Education Employment Relations Act when it approved a charter school and allowed the school to contract out groundskeeping and maintenance services. The Public Employment Relations Board issued a complaint, finding that the district had failed to bargain with the union over the issue. But a Los Angeles County Superior Court judge blocked further action, ruling that the charter law clearly exempts charter schools from the Education Employment Relations Act and that the Public Employment Relations Board had no jurisdiction over the matter.[89]

In a second case with a similar foundation, the Sacramento City Teachers Union filed an unfair labor practice charge with the Public Employment Relations Board, saying the Sacramento City Unified School District should have bargained with the union before approving a charter for Bowling Green Elementary School that prohibited bumping, ignored seniority and changed working hours for teachers but allowed the teachers to remain part of district staff. In this instance, the district decided to settle rather than incur large legal costs to pursue the matter in court. The agreement scaled back some of Bowling Green's changes and precluded the district from renewing the charter or approving other charters without negotiations with the union.[90]

Besides legal action, unions also have lobbied against the formation of charter schools, directing their attentions to district board members who have a vote on the matter and to teachers who must sign petitions. In numerous districts, including Richmond, San Diego and Berkeley, unions have circulated fliers warning teachers that signing charter petitions might endanger their benefits, eventually cause layoffs within the district

and erode other job protections. In some cases, district board members have told charter organizers that they will not approve charters without union blessing.

Some charter proponents believe the charter law needs to be more clear about union issues. The statute's author says he intentionally left union matters out of the law so that schools and districts could freely arrive at their own arrangements, union or non-union. However, the blanket waiver of all laws affecting school districts was intended to include the Education Employment Relations Act, he said.

The uncertainty over such issues makes the charter process difficult for districts as well as schools. Of most pressing concern is the question of liability. Since the charter schools are not legally designated as independent, separate entities, districts believe decisions that are out of their hands may eventually come back to haunt them. Heading for deep pockets, anyone with a grievance against the charter school may choose to sue the sponsoring district. In the case of Los Angeles' Edutrain, for instance, the district has maintained consistently that it is not responsible for unpaid bills -- but district officials say lawsuits over the matter may still be filed in the future. In a question-and-answer packet developed by the Department of Education, the department offered its opinion on the issue:

Since the charter schools are not legally designated as independent, separate entities, districts believe decisions that are out of their hands may eventually come back to haunt them.

> *A charter school and its parent district may, by mutual agreement, assign specified fiscal responsibilities to the charter school. However, even in the presence of such an agreement, districts should consider that they may be held responsible by a court of law for unfunded liabilities incurred by the charter school.*

Despite the uncharted waters, some boards embrace the opportunity to move forward into a new arrangement for board/school relationships. Publications directed at administrators and boards are beginning to carry articles encouraging a more welcoming attitude. The executive director of the Colorado association of school boards wrote:

> *Since public schools were born in 1647 in Massachusetts, school boards have been the providers of public education. They have performed the provider role by hiring teachers, administrators and other staff members. They have decided what is to be taught, and at times how it is to be taught, and they have decided what is good or bad for school's within the total districts they were elected to serve. Under charter schools, that role will change.... Rather than serving as a provider, the board has an opportunity to become the purchaser of education services on behalf of the*

> *citizens of the community served by the board. This is a role that opens up all kinds of possibilities for school boards.*[91]

Similar outlooks have been expressed in articles in Thrust for Educational Leadership ("Taking the Lead in Supporting Charter Schools") and The School Administrator, which said:

> *By being supportive, superintendents can shape their charter petitions and keep the resulting schools integrated into the district's overall reform efforts. Charter schools, in other words, can be as big a win for school administrators as they are for politicians and parents.*[92]

Many believe charter schools could be an even bigger "win" if gray areas regarding autonomy and authority were cleared up and energies no longer had to be devoted to fighting issues that have little to do with what goes on in the classroom.

Recommendations

Recommendation 2-A: The State Department of Education should comply immediately with the wording and intent of the current law by funding charter schools directly.

There is little convincing evidence that the department is unable to apportion funds directly to the 100 charter schools since it is already computing the figures. The Legislature may wish to remind the department of this priority through budget control language. While the added workload of computations for an additional 100 schools seems small compared to the 1,100 districts and county offices the department is already handling, the Legislature may also wish to consider earmarking additional resources for this function.

Recommendation 2-B: The Governor and the Legislature should modify the "things of value" statute to allow independent study programs to provide a range of learning opportunities.

Some schools have been told that they may not offer smaller class sizes, educational supplies, special programs or other options because similar benefits are not available to all classroom students in a district. Such a restriction is antithetical to both the charter school concept and the purpose behind independent study in any school. The law should be modified in such a way as to preclude cash or material "bounties" intended to entice students into a program but to allow specialized educational materials to be provided.

Recommendation 2-C: The Governor and the Legislature should authorize a study of the use of the independent study modality by school districts.

The concerns raised by some charter critics about independent study charter schools are issues that arise in non-charter programs as well. These concerns include the potential for a district to use independent study as a revenue generator because of the low cost; the lack of clear standards for academic achievement and effort; and the potential for using the mechanism to underwrite the teaching of religion at home.

While not a focus of the Little Hoover Commission's charter school study, many experts told the Commission independent study programs are growing rapidly and with little control or monitoring of results. Some have suggested that the independent study option should be structured differently so that districts retain the flexibility to meet the needs of students but are not given excessive fiscal incentives to do so through the independent study method.

A baseline study to identify the status of independent study programs throughout the state would be a good beginning to examining alternatives and addressing concerns.

Recommendation 2-D: The Governor and the Legislature should clarify that charter schools operated by county offices of education have the same freedoms and responsibilities granted to other charter schools.

Because funding sources are different for county boards of education, the Department of Education has ruled that charters operated by counties must continue to comply with restrictions regarding instructional minutes, certificated teachers and calendar days. But there is little sense in having a second-class category of charter schools.

Recommendation 2-E: The Governor and the Legislature should authorize and fund a charter school technical assistance/advocacy unit.

The formation of some charter schools has been needlessly more difficult as they have struggled to reinvent the wheel with little knowledgeable assistance. A unit that would provide information, networking and advocacy could be established in the Governor's child development office or under the direct oversight of the State Board of Education at the Department of Education.

Recommendation 2-F: The Governor and the Legislature should amend the charter law to give charter schools status as separate legal governmental entities, with full liability for their actions and full ability to participate in state programs available to districts. Sponsoring districts should be released from liability for actions taken by charter schools.

With freedom should come responsibility. It makes little sense to place charter schools firmly under the direct control of districts and expect

them to act differently than regular schools. But it makes even less sense to tell sponsoring districts that they have no authority over charter schools without relieving them of liability. Charter schools would still be able to negotiate with districts for services, including the ability to buy into the district's liability insurance system or to find separate liability insurance on the open market or in pools with other educational institutions.

Recommendation 2-G: The Governor and the Legislature should enact legislation to clarify that labor issues will be settled in the charter negotiation process between districts and charter schools, separately from the districts' normal bargaining processes.

The charter law should specifically state that the Education Employment Relations Act is waived for charter schools. In addition, to ensure that labor arrangements are made between the charter school and the district without interference, conditions under which charters may be approved should be prohibited from being addressed in collective bargaining agreements between the district and its non-charter employees. Finally, districts should be prohibited from unilaterally imposing terms and conditions in existing collective bargaining agreements on the charter school.

Charter Roadblocks

- ✓ *The requirement for teacher signatures -- 50% of a staff or 10% of the total district teachers -- leaves other key stakeholders out of the petition process.*
- ✓ *With no other sponsors to turn to, charter proponents often must accept conditions that districts impose as the price for charter approval.*
- ✓ *The appeals process is viewed by many as weak and ill-defined.*
- ✓ *No parameters have been set for renewing charters, leaving the future of charter schools subject to the whim of school board changes. the whim of*

Charter Roadblocks

Finding 3: The processes for establishing and operating charter schools have created unintended consequences that limit flexibility and reduce opportunities for innovation.

The charter law describes a set procedure for obtaining approval of a charter and appealing any rejection by a school district. On other issues -- such as dispute resolution mechanisms and the applicability of the State's earthquake safety provisions -- the law is silent. On still others, the law's ambiguity has caused conflicts. In each of these areas, charter proponents argue that modifying the original law would allow a fuller exploration of educational opportunities under outcome-based accountability.

Approval Process

Three elements of the approval process have been targeted by charter school supporters as weaknesses in California's law: the signature requirement, the role of districts as sole sponsors and the appeals process. In each instance, the law's mandates have limited the options of those who want to form charter schools.

As described in the background of this report, the law requires charter petitions to be signed by 50 percent of the teachers at a school site or 10 percent of the district's entire teaching staff. This provision is criticized for several reasons:

- It arbitrarily excludes other stakeholders who have just as much interest in the process, such as parents, private-sector interests and classified employees.

- While it is sensible to ensure staff support at schools that are looking at converting to charters, the signature requirement has little relevance to start-up schools – schools created from scratch. Under the law, there is no commitment on the part of a signing teacher to work at the charter school, nor is there a requirement that the signatures be gathered at a particular school site. In some instances, signatures have been gathered at one- or two-teacher district-operated alternative schools. At the other end of the scale, it would be almost impossible to gather 10 percent of the teacher signatures in a district the size of Los Angeles Unified School District.

- The requirement precludes innovative school boards from forming charters on their own as a means of driving reform from within.

The teacher-signature requirement is grounded in two realities, both political and practical. First, it assured the trained professionals who are most knowledgeable about education and most intimately involved with the classroom that they would have a voice in experimental programs. And second, it allowed powerful teacher unions to accept a reform movement that is feared.

But many critics of the provision have argued that district boards are already required to assess the level of employee and parent support for a charter petition before granting their approval.

Of even greater concern to critics than teacher signatures is the exclusive right of district boards to grant or reject charters. Many who view the charter movement as a lever to achieve systemic change believe charter schools will make little headway as long as district boards are the sole determinant of approval. One national expert, who coined the phrase "district exclusive" to describe the existing control districts have over education, said:

> *The groups that represent the people who work in K-12 education deeply do not want to lose the district's exclusive. They do not want the state making it possible for public schools to appear, which students may attend, that are out of the district's control. That exclusive is what protects them from the dynamics -- the pressure to be responsive, innovative and economical -- felt by most every institution today.*[11]

Other states have created multiple mechanisms for approval, including Texas, which allows applicants to go to either the local board or the state board, and Arizona, which has created a separate autonomous state-level body to grant charters. In Michigan, school boards, universities and

colleges may all sponsor charter schools, an avenue that allows teacher training programs to create school laboratories.

Creating multiple sponsors causes some technical difficulties. Constitutional provisions require schools to be under the control of officers of the public schools, limiting the sponsor options.[58] In addition, current charter law describes a funding base that is tied to the anticipated sponsoring district, not some other entity -- but the law could be amended to benchmark funding in another manner when the sponsor is not a district. Also, alternative sponsorship will not work well for those seeking to convert an existing school since the facility is under the jurisdiction of the district -- but it may still be an attractive option for start-up schools. Finally, the potential flight of large numbers of students, and their accompanying funding base, from low-achieving districts may disrupt services for schools left behind. But this could be addressed by districts restructuring their processes and reforming their programs to become more competitive.

On the positive side, charter supporters seek alternate sponsors as a way of leveling the playing field when it comes to bargaining over the provisions of the charter. Currently, the board has a great deal of leverage and may demand many concessions as the price for charter approval. The prospect of funding losses if the charter backers go to some other sponsor will serve as a major incentive for districts not only to be more flexible about charter provisions but also to begin to improve programs under their control as a way of remaining competitive in the fight to retain students.

Charter supporters seek alternate sponsors as a way of leveling the playing field when it comes to bargaining over the provisions of the charter.

Having alternative sponsors also would address another concern of charter observers: the weakness of the current appeals process when a charter petition has been denied. Under the statute, rejected petitioners may ask the county superintendent of schools to convene a review panel of three governing board members and three teachers from other districts. The panel determines if the district board "failed to appropriately consider the charter request, or acted in an arbitrary manner in denying the request."[59]

The review panel may require the board to again consider the petition. If the petition is again rejected, the county board may conduct a public hearing and grant the charter under its authority.

The appeals process has been used successfully only once, when Alameda County authorized a charter that had been rejected twice by a Berkeley district. But in other instances, appeals have been futile. One group of charter proponents who have struggled for more than two years in the Fairfield-Suisun School District to convert their neighborhood school believes the appeals process has two major flaws: 1) the review

panel is made up of people who may be reluctant to intervene in another district's decisions and in some cases feel a kinship of commonality as board members; and 2) the law gives no direction about what should be considered "arbitrary" or "failing to appropriately consider." The words are not only vague but are also difficult to prove in a legal sense.

The charter proponents believed they had a good case against Fairfield-Suisun. Several of the board members had stated in public meetings that they would never vote for a charter because of union opposition, a stance the proponents felt was arbitrary. One board member said he was voting no because the charter was opposed by teachers, but proponents said that failed to take into consideration that the charter petition was signed by *every* teacher at the school site.

The charter proponents found the review panel process distinctly lacking in balance and fairness. At the last minute, they were not allowed to play a videotape of the board's action, although such testimony had been cleared before the meeting. Proponents' comments were given short shrift, and the review panel members appeared unfamiliar with charter concepts and processes.

Their appeal rejected and a second try at winning district approval also defeated, the group -- which has widespread local community support -- is at a loss for how to continue. "They have all the marbles, they have all the power -- and they have no incentive to deal," said one of the parents about the board.

Other areas have seen similar outcomes, including Santa Barbara, St. Helena, Ojai and Santa Rosa. Of course, nothing in the charter law requires that all charters be approved -- and it is likely that some charters are rejected with good reason, because they are not well crafted or well thought out. But an effective appeals process and the possibility of alternate, less-intransigent sponsors would ensure that charters with good potential are not blocked simply by institutional foot-dragging or bureaucratic opposition.

Statutory Silence

In some key areas, the charter school statute is silent, leading to arguments over what laws can be waived, what arrangements can be made and other issues. Three examples are the Field Act, a mechanism for resolving disputes and the payment of rent for district-owned facilities.

The Field Act is California's earthquake safety provision for the construction of school facilities. As noted in an earlier Little Hoover Commission study, there is some dispute about the increased level of safety that is provided under the Field Act, since the main difference is in a 24-hour inspection process during construction rather than a material difference in strength or building components. In addition, many

students already are not housed in Field Act-approved buildings, whether because of the type of program they are in or because of authorized waivers and out-of compliance mobile structures."[4]

Because charter schools are exempt from the laws governing school districts, many -- including the legislation's author -- say they are not covered by the Field Act. Instead, the charter law, without providing parameters, requires each charter to address student health and safety concerns. Such an arrangement gives schools -- especially start-up schools -- maximum flexibility to make use of community resources. In Nevada County, for instance, the Performing Arts Charter School is renting space from a company that has downsized and moved upstairs in an industrial facility. Similarly, the Waldorf school in the same county is occupying an office complex that has been vacant for some time.

Exemption from the Field Act gives charter schools -- especially start-up schools -- maximum flexibility to make use of community resources.

But some believe the law is not clear about the Field Act. They contend that board members incur personal liability for approving an arrangement that places children in non-Field Act buildings because, while the charter school is exempt from laws, the district is not. Since it is not clear that charter schools are separate legal entities, district boards fear they may be sued in the event of any Field Act-related disaster.

Another area that is missing from the charter school law is the requirement for a dispute resolution mechanism in the agreement between the district and the school. A minor matter that seems unimportant until a dispute arises, the lack of such foresight in charters has caused strained relationships and unnecessary conflicts for some boards and schools. A section in the charter that detailed a process specifically for inexpensive and timely decisions on problems as they arise would be valuable.

Finally, the law is silent regarding rent that a charter school may be charged by a district for use of vacant facilities. This practice puts a severe strain on charter school budgets. Per-pupil funding at other schools is not expected to cover the capital outlay involved in putting a roof over the students' heads; school construction is typically funded by bonds and developer fees. So any rent paid by charter schools means diverting funding that would normally go to the classroom.

Districts, on the other hand, want to recoup maintenance costs and receive compensation for giving up the facility, as well as equitably spreading the cost of retiring bonds. Charter proponents point out that this practice ignores the revenue neutrality of the charter law by turning the district into a rent-collecting landlord that is no longer responsible for housing students it would normally have to contend with.

Vague Areas

In some cases, the charter law addresses issues but does not clearly define processes. For instance, the law provides for renewal of charters by the sponsoring district for subsequent periods of up to five years each -- but no guidelines are given for district action. Renewals have not become a major issue yet because most charters are issued for five years, and the law is only three years old. But charter proponents fear that renewals may be subject to the changing whim of board politics instead of being based on the charter school's performance.

Other states have addressed this concern. Arizona, for instance, says renewal may be denied if the charter school has failed to complete its obligations or comply with laws. The sponsor must give written notice of its intent not to renew the charter at least 12 months prior to the expiration date.

Some charter law experts have suggested that the same guidelines for revocation be followed to support any decision to reject renewal: committing a material violation of the charter, failing to pursue the charter's identified academic goals, failing to exercise sound fiscal management or violating any law. Other suggestions have included requiring the board to document its reasoning and requiring the board to consider the level of community support for continuation of the charter school.

Another area that is not clearly addressed in the law is the applicability of the open meeting laws. The charter law requires public hearings for consideration of charter approval, but no such provision is made for revocations, renewals or appeals.

While California's charter school law is regarded as a strong law nationally, many believe there remain areas that could be strengthened or modified to improve charter processes.

Recommendations

Recommendation 3-4: The Governor and the Legislature should create -- in addition to the 10 percent/50 percent teacher-signature mechanism -- alternative requirements that would allow other groups to petition districts for charter approval.

Alternatives could involve requiring a set number of parent signatures or proof of support through community surveys or by academic evaluation. While leaving intact a mechanism that ensures a large role for teachers in creating charter schools, creating other processes would allow other stakeholders, such as parents, community interests or district boards themselves, to be the major driving force behind educational alternatives.

District boards would still be required to weigh the level of community and employee support before approving a charter, and a board could reject any petition that failed to attract teacher support.

Recommendation 3-B: The Governor and the Legislature should enact legislation authorizing the State Board of Education, county offices of education and higher education institutions to sponsor charter schools.

Giving charter proponents alternate sources for approval will put all participants in the bargaining process that occurs between sponsor and petitioner on a level playing field and encourage greater reform efforts spurred by the competition to win or retain students. It also will provide a valuable link between institutions that train teachers, administrators and other child development specialists and the schools that professionals eventually operate in.

Recommendation 3-C: The Governor and the Legislature should strengthen the charter petition appeals process to make it a more effective forum for balancing local concerns.

Rather than requiring a panel to review the district's decision and send improperly rejected petitions back for second consideration, the process could be revamped so that rejected petitioners can make their case for approval directly to the county board of education. In the alternative, if the panel process is retained, it could be strengthened by adding outside interests, such as community leaders, parents and private-sector representatives. In addition, the district and the appeal panel could be required to specify which of the 13 elements were unsatisfactory and steps that charter proponents could take to make their proposal acceptable.

Recommendation 3-D: The Governor and the Legislature should clarify the charter law to exempt sponsoring districts from Field Act liability for charter operations.

School boards should not be held at risk for a law that charter schools are allowed to ignore. Under the charter law, their obligation should be met by ensuring that charter drafters have adequately addressed concerns under the charter health-and-safety element.

Recommendation 3-E: The Governor and the Legislature should prohibit sponsoring districts from charging charter schools rent if the facilities to be used are not already generating revenue for the district.

To continue the revenue neutrality of the charter school concept and to ensure that charter school budgets are not deprived of funds that should be directed into the classroom, districts should not be allowed to require charter schools to shoulder a burden not shared by other schools. The

State's per-pupil funding mechanism has never been intended to cover capital outlay costs, which instead are met by bonds. The law could include exceptions to take care of districts that incur additional facility costs because of the charter school's occupancy of needed quarters. And it should allow the district to impose the same costs allocated to all schools in the district for retirement of bonds, as long as the charter school is also apportioned a share of all district funding, such as developer fees, that contribute to covering facility costs.

Recommendation 3-F: The Governor and the Legislature should require charters to have an additional element defining a dispute resolution process.

Because charter schools and their sponsoring districts are closely linked but have differing interests, disputes arise. Addressing how those will be handled ahead of time should make problems easier to resolve.

Recommendation 3-G: The Governor and the Legislature should define the charter renewal process in law.

Before rejecting a request for charter renewal, districts should provide written reasons, including specifying which, if any, of the 13 elements in the charter are inadequate or need to be revamped. They also should consider the level of community support for the continuation of the school. In addition, the legislation could restrict the reasons for non-renewal to those applying to revocations: committing a material violation of the charter conditions, failing to pursue the promised pupil outcomes, failing to use good fiscal management and violating any provision of law.

Recommendation 3-H: The Governor and the Legislature should require charter renewal, revocation and appeals processes to be conducted according to open meeting laws.

The public has a legitimate interest in how decisions regarding charter schools are made. Any actions to renew, revoke or consider an appeal should take place in the public arena.

Charter Funding

- ✓ *California's funding scheme for schools is so complicated that many charter schools are unable to tell how much money they should receive.*
- ✓ *The law is unclear about the right of charter schools to share in many sources of money, including lottery, desegregation, summer school and deferred maintenance funding.*
- ✓ *While attendance accounting is simplified for charter schools, it still relies on counting students each day they are in their seats rather than focusing on enrollment as many other states do.*
- ✓ *Cash flow problems are particularly difficult for start-up charter schools and those with rapidly growing enrollment.*

Charter Funding

Finding 4: Many of the systemic funding problems that affect all schools have an adverse affect on the ability of charter schools to be innovative and flexible.

California's funding mechanism for education is a crazy-quilt of apportionments and entitlements that is so convoluted that only a handful of people in the state understand its complexities. The situation becomes more tangled when it pertains to charter schools, which by law are not subject to restrictions and requirements -- but are affected by perplexing formulas that determine how much their share is. The resulting specific problems that affect charter schools include:

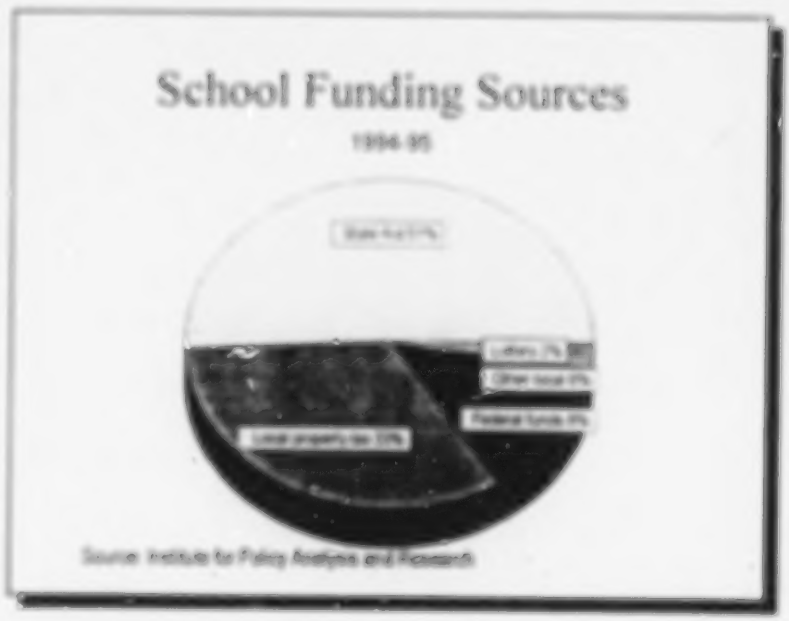
- ***Funding uncertainty***, which makes planning an educational program and budgeting for it very difficult.
- ***Restrictive attendance accounting***, which constrains the choices charter schools can make when designing an academic calendar.
- ***Cash flow shortages***, particularly if a start-up school -- with no prior year's enrollment -- is involved, or a charter school enjoys rapid growth.

Although the scope of this report does not include a thorough examination of California's education funding scheme, some background information is necessary. The following section is a basic primer on education funding, largely derived from a straightforward, non-technical manual produced by the Institute for Policy Analysis and Research.[47]

Education Funding

California's schools receive their funding from three sources: the federal government, the state government and local resources. As the chart below indicates, about half the funding comes from the state and only 8 percent from the federal government. Local sources of income include property taxes, developer fees, parcel taxes, cafeteria income and other miscellaneous revenues.

The revenue arrives at schools through a variety of programs. The largest is the general purpose, per pupil funding mechanism known as the Revenue Limit system. These funds, which averaged $3,127 per student in 1994-95, are calculated by starting with a base amount for the district, multiplying by the number of students attending classes each day, and then adjusting with a lengthy list of add-ons and take-backs that have to do with each district's specific characteristics.



Once this "total revenue limit" is computed for a district, the State subtracts the amount the district generates from its property taxes, adds funding for summer school and other miscellaneous programs, and adjusts the final amount by a "deficit factor" that the State has employed during the past few years of fiscal crisis. The end result is the amount the State sends to the school district to supplement local property tax revenues. In the event that a district's property tax funds exceed the total revenue limit -- and the district, therefore, has enough local resources to cover education costs -- the State sends a minimum payment of $120 per student.

A key input for the revenue limit calculations is the number of students served by a school each day, known as the Average Daily Attendance (ADA). Under California law, schools receive funding for students only on days when they are in class or have an absence that is excused. Allowable absences are limited largely to illnesses and medical appointments. Because of the way school funding is calculated, schools must track attendance daily and document absences with parent written excuses.

In addition to the Revenue Limit funding, schools receive large blocks of money from programs known as categoricals. These programs earmark specific funding for special purposes, with the amounts due to each school often determined by formulas involving specific types of students, socio-economic conditions and other factors. The categoricals include special education, transportation, desegregation, instructional materials, and others. In some instances, the source of categorical funds is the State, in others it is the federal government -- and in some it is a combination of both.

In addition to having complicated sources of funding, schools actually receive the money in uneven batches throughout the fiscal year (July through June). State funds are paid to school districts monthly. The first seven months that money is sent to schools, it is keyed to attendance figures for the prior school year, since for part of those months the school year has yet to start and for the rest the figures are not yet gathered and verified at the state level. During those initial months, the distribution is 6 percent in July, 12 percent in August and 8 percent each in September, October, November, December and January. Switching to the current attendance figures and making whatever overall adjustments are necessary, the State then arrives at a new annual entitlement. It sends two-sixths of the remaining entitlement in February, one-sixth each in March, April and May and the remainder in June. Local funds mostly reach districts in December and April, when the bulk of property taxes are paid.

Funding Uncertainty

Charter schools cannot easily identify all the funding that they are due, either before they put their plans together or after they begin operations. The law does not clearly state whether or not they are entitled to share in certain funding pools that districts receive. In other cases, the amounts that should flow to them are complicated by how their student populations differ from the district's student body. And in still others, costs that districts normally spread across all schools may be difficult to estimate.

The amount of the general purpose funding a charter school should receive is straightforward and defined in law. Charter schools are owed the district's base revenue limit, adjusted by any cost-of-living increase and the statewide deficit factor, multiplied by the average daily attendance for the school.

Added to these general purpose funds are a long list of categoricals that charter schools are meant to share in, as specified in the charter law. In addition, there is a shorter list of funds that are not clearly addressed in law, but that some districts share with their charter schools and others do not, depending on the agreement reached in negotiations. The table on the next page indicates what funding charter schools can count on and which sources are up in the air.

Table 2 SOURCES OF FUNDING FOR CHARTER SCHOOLS	
Specified in Law	***Subject to Negotiation***
Revenue Limit	Lottery
Special Education	Desegregation
Economic Impact Aid	Restructuring
Transportation	Class-Size Reduction
School Improvement Program	Year-Round Schools
Instructional Materials	Deferred Maintenance
Staff Development	Summer School
Mentor Teacher	Any parcel taxes
Reading Specialists	Basic Aid (if district's property taxes exceed revenue limit)
10th Grade Counseling	Any excess local taxes
Gifted and Talented	
Child Development	
Federal Chapter 1	
Federal Chapter 2	
Child Nutrition	

Source: Institute for Policy Analysis and Research

As the table indicates, charter schools have little leverage for negotiating with school districts for a share of the optional funding. The negotiations are also complicated by the tricky concept that involves charter schools not being subject to restrictions.

Under the law, once charter schools have categorical funding in hand, they may spend it without restrictions. But to qualify for some forms of categorical funding, there have to be eligible students or other school characteristics. This means that, to some extent, charter schools have to comply with data-gathering functions that prove eligibility for the funding -- even though they will not be required to spend the funds in any manner that is connected with the eligibility. In many cases, the requirements involve complicated documentation that must be fed into the district to be combined with other figures.

The funding problem is further complicated by the fact that charter schools technically remain part of the sponsoring school district. The district may have internal formulas about how funding is allocated to

each school. For instance, unified districts earmark a higher amount per pupil for high schools than for elementary schools because of the higher-cost teaching staff, counseling and other program requirements. Districts also spread administrative costs across various programs, and sometimes make up shortfalls in the support needed for some services out of surpluses gained in other areas. How a charter school shares in all of these processes or stays outside of the loop is up to negotiation -- and therefore is an uncertain element during the planning and formation stages of a charter school.

In many instances, the complexity of education funding drags charter schools back into the red tape and bureaucracy that the concept is designed to avoid. The result is energy that could be devoted to creative and innovative education programming is diverted to fiscal issues.

Attendance

Many policy makers have long recognized the aberrant nature of the way California counts students. As the Little Hoover Commission has noted in previous reports, whether or not a student is in his seat on a specific day does little to affect school costs, such as staffing, overhead, maintenance and supplies. Yet the State continues to require schools to devote inordinate resources to tracking attendance, documenting illnesses and preserving an audit trail for three years after the fact. Although other states use methods that are less cumbersome, such as date-specific enrollment or monthly attendance, California has clung to its system.

Starting from Scratch

Cash flow problems are particularly miserable for start-up schools. **Jingletown Charter Middle School** in Alameda County is one example of a school that has struggled with start-up costs. A seventh through ninth grade school with 192 students, Jingletown was the response of a tight-knit Hispanic community surrounding an elementary school to what they viewed as unsafe and academically deficient middle school choices. The parents wanted a small school where their children could continue to transition from Spanish to English, away from gangs and drug pressures.

The charter was granted but the school had no home. For the first two years, Jingletown used donated space on nearby church grounds. It cost $40,000 to start the school, much of which was covered by a $25,000 private-sector grant. Then two years later, the school moved to an industrial area of town, setting up portables in the middle of a large vacant and undeveloped lot. The move cost $125,000.

Jingletown's principal appreciates the parental support expressed in countless volunteer hours to prepare the site and make the classrooms habitable. "But having heart doesn't compensate for the lack of money," she says. Moving costs have greatly reduced the school's budget for supplies. Start-up issues have had a substantial impact on the staff's ability to concentrate on developing their desired curriculum and focusing energies on academics.

Many of the regulations adopted to define attendance for charter schools, charter schools are not required to meet certain class sizes, use

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credentialed staff, adhere to a minimum day length or provide a total number of instructional minutes a year. All of those elements must be followed for non-charter schools to claim reimbursement for average daily attendance.

In addition, charter schools are not required to track absences. Instead, the charter school attendance figures are bumped upwards by 5 percent, a figure that is a rough average of normal illness-related absences.

Finally, charter schools are required to teach 175 days per year to receive their full apportionment, and have no mechanism for counting pupil-free staff development days.

The charter school regulations are a baby step away from the burdensome regular attendance system. But charter schools are still constrained by the concept that students showing up on a certain number of days will add up to education.

Cash Flow

All California school districts suffer cash flow problems because of the ebb and flow of state checks, the time it takes to establish average daily attendance figures and the district-specific mix of state and local funding. These are usually addressed by short-term financing mechanisms. Similar tools are often not available to charter schools, except through the generosity of the sponsoring district, because they are not clearly defined as separate legal entities.

In their initial year, charter schools are further hampered because they have no prior year's attendance upon which to receive checks. In addition, in succeeding years, charter schools may grow rapidly as word-of-mouth information spreads and more students enroll. In those cases, the funding base from the prior, smaller attendance year may be inadequate to hire staff and keep a program going until the February readjustment for the current year attendance.

Districts usually address these problems by making short-term loans to the schools, but it is another area where charter schools are at the mercy of their sponsor.

Recommendations

Recommendation 4-A: The Governor and the Legislature should enact legislation that clearly establishes the funding base for charter schools as a proportionate amount of all district funding.

Charter schools should not be expected to be innovative, creative and academically successful with less funding than normal schools. But they should also not be constrained by a system that pigeon-holes funding and

how it may be applied for and spent. One way of avoiding these problems is to give charter schools a proportionate amount of all funding that comes into the district.

Under this system, the apportionment assigned to a charter school would be an amount of funding that is equal to the district's entire funding, regardless of source, divided by all the total number of students in the district, and then multiplied by the number of students at the charter school. (Because of the federal restrictions on some funds, this would require the State to seek federal waivers.)

In addition, to avoid the problem of requiring districts to submit data that includes charter schools when charter schools are not required to collect such data, the law should allow districts to arrive at non-charter numbers and then factor in a proportionate additional amount to account approximately for charter students.

Recommendation 4-B: The Governor and the Legislature should set the funding for charter schools with non-district sponsors at the state average funding for the appropriate school type.

If the State chooses to create alternate sponsors, such as state universities and colleges, a separate funding scheme will have to be enacted to cover costs. One alternative is to grant charter schools with non-district sponsors the average state funding for elementary or high schools, depending on the scope of the school. In addition, these schools could be granted an average amount derived from all non-federal categoricals.

Recommendation 4-C: The Governor and the Legislature should redefine the relationship between funding and students for charter schools.

While the average daily attendance definition for charter schools moves away from many of the restrictions in the normal attendance system, it does not go far enough. The State has an opportunity to use charter schools as a pilot for changes many policy makers have long recognized as necessary in the way student presence is counted. One way of doing this is to require charter schools to submit "active monthly enrollment" figures, which could be defined as the number of different students engaged in educational activities at a school over the course of a month.

Recommendation 4-D: The Governor and the Legislature should create a revolving loan fund for first-year and rapidly expanding charter schools.

First-year and rapidly growing charter schools should have a resource for covering payrolls, daily expenses and other operating costs until their funding starts to flow from the state. A fund that covers those costs and then recoups the loan from future apportionments would ease cash flow problems these schools suffer from.

Conclusion

Conclusion

California's public schools are not making headway on much-needed improvements, despite years of reform efforts. There are many possible reasons: an overwhelming influx of children with extreme needs, stagnant funding support, lack of adequately trained personnel. But regardless of cause, the urgent need for California to equip its future citizens with a solid educational foundation is undeniable.

Reformers have searched for a single-shot change that will mold all schools into academies of excellence. But research on how children are educated points to different learning styles and different academic approaches that can provide success. It is, therefore, unrealistic to build a school system that follows one undeviating path to meet the needs of a diverse student population. Yet that is the all-but-certain outcome when a monolithic bureaucracy focuses top-down controls on policies, procedures and methods.

The charter school movement negotiates a path around this problem:

- School by school, the present education bureaucracy is asked to shift its attention from accountability for following rules to accountability for results.
- School by school, teachers and administrators are given the opportunity to put their techniques for achieving academic excellence into place.
- School by school, parents are free to make a decision about whether the educational approach offered by a specific school suits their child and meets their expectations.

Facing Fears

Almost any new idea can be attacked by defenders of the status quo. Change is difficult and there are never any assurances that the new way might not cause problems that are as bad, if not worse, than aspects of an existing system. The specter of potential disaster often overshadow any realistic discussion about the greater dangers of not changing at all. Charter schools have prompted this kind of debate -- with critics seeing the possibility of waste and chicanery and reformers crying out for a chance to try something truly different than the failed methods of old. Both sides can raise compelling arguments.

Opponents fear that charter schools will become limited cases, with too many children stranded in a failing system of schools left behind. But supporters point to an existing system that is already studded with good schools and less-good schools where students are, for the most part, locked in to whatever is nearby. And they talk of the upward tug of improvement that charter schools can exert on nearby traditional schools through setting examples, breaking district barriers and pinpointing "customer" needs.

While some critics feel that charter schools are just another reform in a long line of reforms, none of which has been given sufficient time to work, supporters believe charters are a quantum leap forward. The principal of one charter school, which also participates in Healthy Start and receives SB 1274 school restructuring grants, said the charter option gives her the flexibility to make the other reforms work. The hallmarks of those reforms -- enriching the curriculum, providing services to at-risk children and involving parents -- all improve academic results to some degree. But it is the charter that removes bureaucratic red tape and barriers that devour time and energy that should be devoted to getting results.

The biggest risk of the charter school experiment is failure -- failure in the form of poor test scores, funds spent inappropriately or non-standard curricula (such as religious or ethnocentric materials). But supporters argue that charters have a mechanism that addresses failure. A charter school that is not performing as expected in any manner faces closure. The same cannot be said of regular public schools, where failure at best invites more resources and attention and at worst is shrugged off as unavoidable.

Moving Forward

California's experience with charter schools is still in the formative stages. But, as this report documents, there are many signs that these schools are successfully meeting the needs of students, the expectations of parents and the demands of public accountability.

As the charter schools continue to build a track record of success, change is rippling slowly into the non-charter system, with other schools pushing for similar freedoms and districts re-evaluating their processes. At the same time, gray areas in the charter school law are providing an opening for the educational bureaucracy to reassert control over processes rather than results.

To counter the institutional forces that are reining in charter schools, this report builds a case for several modifications of the charter school law. These include:

- Eliminating the 100-school cap.
- Funding charter schools directly from the State.
- Recognizing charter schools as separate, legal governmental agencies.
- Creating alternative sponsors and alternative petition mechanisms.
- Clarifying the funding base for charter schools.

The charter school movement may well move forward without these changes, but the road will be slower and the reforms less extensive. Some may believe that caution would be wiser, but charter school supporters believe that such caution is quicksand that will pull "reforms" back into the mainstream. Neither side can promise eventual success. Former Senator Gary Hart, the author of the charter school law, recognized in his supporting remarks to his colleagues that to some extent charter schools are a leap of faith with an uncertain outcome:

> *I urge you not to become enmeshed in "what if" scenarios to the detriment of innovation and creativity. Think outside the box and act boldly. Public education deserves nothing less.*

After careful evaluation, the Little Hoover Commission believes charter schools are a positive force in today's education system. There is no claim that the charter school movement is a panacea for all of the ills of public schools. But it is a powerful tool that is unleashing creative energy. The beneficiaries are California's children.

Appendices

APPENDIX A
Little Hoover Commission Charter School Advisory Committee

The following people attended advisory committee meetings, asked to be retained on the list to receive information about the study, or participated by providing input in interviews, letters or phone calls. Under the Little Hoover Commission's process, advisory committee members provide expertise and information but are not asked to vote on the final product.

Vera Algozt
Lin Scott Charter School

Joanne Allen
Center for Education Reform

Dr. Al Andrews
Options for Youth

Helen Bernstein, President
United Teachers Los Angeles

Peter Birdsall, Executive Director
Calif. Institute for School Improvement

Mary Bixby
The Charter School of San Diego

Harriet Borson, Chair
Calif. State Parent Teachers Association

Sue Steelman-Bragato
San Carlos Charter School

Katie Braude
Palisades Education Complex

MaryJane Burke
Marin County Superintendent of Schools

Susan Byerrum
Grass Valley Charter School

Davis Campbell, Executive Dir.
Calif. School Boards Association

Loyal Carlon
Darnall E-Campus

Lisa Carlos
Far West Laboratory

Dr. James Catterall
Graduate School of Education
and Information Services, UCLA

Yvonne Chan
Vaughn Next Century Learning Center

Tom Changnon
Keys to Learning Charter School

Ronald Corwin
Southwest Regional Laboratory

Tom Cosgrove
Cato School of Reason

Laura Dearden
Paradise Unified School District

Clementina Duron
Jingletown Charter Middle School

Terry Emmett
Department of Education

Patricia Gandara
Division of Education
UC Davis

Randy Gaschler
Horizon Instructional Systems

Chuck Gehrke
Excelsior Education Center

Hal Geogue
Assembly Education Committee

Ricka Gerstmann
San Francisco Charter Early Childhood

Frank Graham-Casso
California Teachers Association

Murray Haberman
California Research Bureau

John Hall
Options for Youth

Bob Hampton
Buckingham Charter School

Gary Hart
CSUS, Institute of Education Reform

Lori Herce

Scott Himelstein, Executive Director
William D. Lynch Foundation for Children

Ellen Hintz
San Francisco Charter-Early Childhood

Diane Hirshberg, Executive Director
William D. Lynch Foundation for Children

Ginger Hovenic
Clear View Charter School

David Illig, Ph.D.
California Research Bureau

Elaine Johnson
California Federation of Teachers

Tom Johnson
Placer Charter High School

Anton Junghenn

Marilyn Kelly, Superintendent
Sonoma Valley USD

Kirk Knutsen
California Research Bureau

Julie Koppich
Policy Analysis for California Education

Nancy LeCasse
School Services of California

Bill Lambert
United Teachers-Los Angeles

Allan Lehman
Yucca Mesa Charter School

Joe Lucente
Fenton Avenue Charter School

Dennis Mah
Bowling Green Charter School

Robert Mange
Folsom Middle School

Leanne McComas
Westside Charter School

Jane McDonough
Sonoma Valley Charter

Marion McDowell, President
State Board of Education

Tessa McGarr
Ready Springs Charter School

Ron Meade, Superintendent
Midvalley Alternative Charter School

Melinda Melendez for Elizabeth Kersten,
Director, Senate Office of Research

Cathryn Morgan
Louisiana Schnell Elementary

Paige O'Connor
San Diego City Schools

David Patterson for Delaine Eastin
State Superintendent of Public Instruction
California Department of Education

Eric Premack
Institute for Policy Analysis and Research

Joe Rao
Los Angeles Unified School District

Marta Reyes
El Dorado County Board of Education

Pamela Riley
Pacific Research Institute

Mike Roos, President and CEO
LEARN

Mary Ruffner
Constellation Community Charter Middle Sch. 4

Tom Ruiz
International Studies Academy

Eric Schoffstall
Charter 25

Joel Schwartz for Elizabeth Hill
Office of the Legislative Analyst

Penny Sir ibner
Delanding Elementary School

Rick Simpson
Senate Education Committee

Robert Stein
O'Farrell Community School

Kevin Syed
The Accelerated School

Ting Sun
Natomas Charter School

John Webster
Pioneer Union ESD

Brenda Weinstock
Canyon Charter School

Tom Wheeler
San Francisco Charter Early Childhood

Jonathan K. Williams
The Accelerated Schoo

APPENDIX B
Witnesses Appearing at
Little Hoover Commission Charter School Public Hearings

October 18, 1995
Los Angeles

Mike Roos
LEARN

Dr. James Catterall
UCLA

Yvonne Chan
Vaughn Next Century Learning Center

Kathryn Braude
Palisades Charter Schools Foundation

Gordon Wohlers
Los Angeles Unified School District

John Perez
United Teachers Los Angeles

Mary Bixby
Charter School of San Diego

November 16, 1995
Sacramento

Delaine Eastin
Superintendent of Public Instruction

Eric Premack
Institute for Policy Analysis and Research

Randy Geschke
Horizon Instructional

Dennis Moh
Bowling Green Elementary School

Robin Wagner
Fairfield-Suisun School District parent

Mike Barkhurst
Nevada Union High School District

APPENDIX C
26 Charter Schools Visited by the Little Hoover Commission

Northern California:

Grass Valley Charter School
Twin Ridges Alternative Charter School
Nevada City Charter School

Sacramento:

Detending Charter Elementary School
Natomas Charter School

San Francisco Bay Area:

San Carlos Charter Learning Center
Jingletown Charter Middle School
San Francisco International Studies Charter School
San Francisco Early Childhood Charter School

Central California:

Kern Community Learning Center
Santa Barbara Charter School
Peabody Charter School

Los Angeles:

Fenton Avenue Charter School
Vaughn Next Century Learning Center
Westwood Charter School
Open Charter School

Southern California:

Options for Youth
Choice 2000
Excelsior Education Center
Cato School of Reason

San Diego:

Charter School of San Diego
Darnell-E Campus
Harriet Tubman Charter School
O'Farrell Community Charter School
Clear View Elementary Charter School
Johnson Urban League Charter School

APPENDIX D
Text of Charter School Law

CALIFORNIA EDUCATION CODE

PART 26.8. CHARTER SCHOOLS

CHAPTER 1. GENERAL PROVISIONS 47600-47603

CHAPTER 2. ESTABLISHMENT OF CHARTER SCHOOLS 47605-47607

CHAPTER 3. CHARTER SCHOOL OPERATION AND FUNDING 47610-47612

CHAPTER 4. NOTICE 47616

47600. This part shall be known, and may be cited, as the "Charter Schools Act of 1992."

47601. It is the intent of the Legislature, in enacting this part, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following:

a) Improve pupil learning.
b) Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.
c) Encourage the use of different and innovative teaching methods.
d) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.
e) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.
f) Hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems.

47602. a) The total number of charter schools operating in this state in any school year shall not exceed 100, with not more than 10 charter schools in any single school district. For the purposes of implementing this section, the State Board of Education shall assign a number to each charter notice it receives pursuant to subdivision (i) of Section 47605, based on the chronological order in which the notice is received.
(b) No charter shall be granted under this part that authorizes the conversion of any private school to a charter school.

47603. This part shall not be construed to prohibit any private person or organization from providing funding or other assistance to the establishment or operation of a charter school.

47605. (a) A petition for the establishment of a charter school within any school district may be circulated by any one or more persons seeking to establish the charter school. After the petition has been signed by not less than 10 percent of the teachers currently employed by the school district, or by not less than 50 percent of the teachers currently employed at one school of the district, it may be submitted to the governing board of the school district for review.
(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the

charter, at which time the board shall consider the level of employee and parental support for the petition. Following review of the petition and the public hearing, the governing board shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. A school district governing board may grant a charter for the operation of a school under this part if it determines that the petition contains the number of signatures required by subdivision (a), a statement of each of the conditions described in subdivision (d), and descriptions of all of the following:

(1) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(2) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.

(3) The method by which pupil progress in meeting those pupil outcomes is to be measured.

(4) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(5) The qualifications to be met by individuals to be employed by the school.

(6) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.

(7) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(8) Admission requirements, if applicable.

(9) The manner in which an annual audit of the financial and programmatic operations of the school is to be conducted.

(10) The procedures by which pupils can be suspended or expelled.

(11) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(12) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(13) A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

" Charter schools shall meet the statewide performance standards and conduct the pupil assessments required pursuant to Section 60602.5.

(d) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability. Admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(e) No governing board of a school district shall require any employee of the school district to be employed in a charter school.
(f) No governing board of a school district shall require any pupil enrolled in the school district to attend a charter school.
(g) The governing board may require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects upon the school and upon the school district.
(h) In reviewing petitions for the establishment of charter schools within the school district, the school district governing board shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the State Department of Education under Section 54032.
(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the State Board of Education.
(j) (1) If the governing board of the school district denies a charter, the county superintendent of schools, at the request of the petitioner or petitioners, shall select and convene a review panel to review the action of the governing board. The review panel shall consist of three governing board members from other school districts in the county and three teachers from other school districts in the county unless only one school district is located in the county, in which case the panel members shall be selected from school districts in adjoining counties.
(2) If the review panel determines that the governing board failed to appropriately consider the charter request, or acted in an arbitrary manner in denying the request, the review panel shall request the governing board to reconsider the charter request. In the case of a tie vote of the panel, the county superintendent of schools shall vote to break the tie.
(3) If, upon reconsideration, the governing board denies a charter, the county board of education, at the request of the petitioner or petitioners, shall hold a public hearing in the manner described in subdivision (b) and, accordingly, may grant a charter. A charter school for which a charter is granted by a county board of education pursuant to this paragraph shall qualify fully as a charter school for all funding and other purposes of this part.

47606. (a) A school district may convert all of its schools to charter schools under this part only if it meets all of the following conditions:
(1) Fifty percent of the teachers within the school district sign the charter petition.
(2) The charter petition contains all of the requirements set forth in subdivisions (b), (c), (d), (e), and (f) of Section 47605 and a provision that specifies alternative public school attendance arrangements for pupils residing within the school district who choose not to attend charter schools.
(b) Notwithstanding subdivision (b) of Section 47605, the districtwide charter petition shall be approved only by joint action of the Superintendent of Public Instruction and the State Board of Education.

47607. (a) A charter may be granted pursuant to Sections 47605 and 47606 for a period not to exceed five years. A charter granted by a school district governing board or county board of education may be granted one or more subsequent renewals by that entity. Each renewal shall be for a period not to exceed five years. A material revision of the provisions of a charter

petition may be made only with the approval of the authority that granted the charter.
(b) A charter may be revoked by the authority that granted the charter under this chapter if the authority finds that the charter school did any of the following:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter petition.
(2) Failed to meet or pursue any of the pupil outcomes identified in the charter petition.
(3) Failed to meet generally accepted accounting standards of fiscal management.
(4) Violated any provision of law.

47610. A charter school shall comply with all of the provisions set forth in its charter petition, but is otherwise exempt from the laws governing school districts except as specified in Section 47611.

47611. If a charter school chooses to participate in the State Teacher's Retirement System, all employees of the charter school who qualify for membership in the system shall be covered under the system, and all provisions of Part 13 (commencing with Section 22000) shall apply in the same manner as if the charter school were a public school in the school district that granted the charter.

47612. (a) The Superintendent of Public Instruction shall make all of the following apportionments to each charter school for each fiscal year:

(1) From funds appropriated to Section A of the State School Fund for apportionment for that fiscal year pursuant to Article 2 (commencing with Section 42238) of Chapter 7 of Part 24, an amount for each unit of regular average daily attendance in the charter school that is equal to the current fiscal year base revenue limit for the school district to which the charter petition was submitted.
(2) For each pupil enrolled in the charter school who is entitled to special education services, the state and federal funds for special education services for that pupil that would have been apportioned for that pupil to the school district to which the charter petition was submitted.
(3) Funds for the programs described in clause (ii) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761, and Sections 63000 and 64000, to the extent that any pupil enrolled in the charter school is eligible to participate.

(b) A charter school shall be deemed to be under the exclusive control of the officers of the public schools for purposes of Section 8 of Article IX of the California Constitution, with regard to the appropriation of public moneys to be apportioned to any charter school, including, but not limited to, appropriations made for the purposes of subdivisions (a) and (b).
(c) A charter school shall be deemed to be a "school district" for purposes of Section 41302.5 and Sections 8 and 8.5 of Article XVI of the California Constitution.

47616. The State Department of Education shall review the educational effectiveness of the charter school approach authorized under this part and, not later than January 1, 1999, shall report to the Legislature accordingly with recommendations to modify, expand, or terminate that approach.

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LITTLE HOOVER COMMISSION FACT SHEET

The Little Hoover Commission, formally known as the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, is an independent state oversight agency that was created in 1962. The Commission's mission is to investigate state government operations and -- through reports, and recommendations and legislative proposals -- promote efficiency, economy and improved service.

By statute, the Commission is a balanced bipartisan board composed of five citizen members appointed by the Governor, four citizen members appointed by the Legislature, two Senators and two Assembly members.

The Commission holds hearings on topics that come to its attention from citizens, legislators and other sources. But the hearings are only a small part of a long and thorough process:

- Two or three months of preliminary investigations and preparations come before a hearing is conducted.
- Hearings are constructed in such a way to explore identified issues and raise new areas for investigation.
- Two to six months of intensive fieldwork is undertaken before a report -- including findings and recommendations -- is written, adopted and released.
- Legislation to implement recommendations is sponsored and lobbied through the legislative system.
- New hearings are held and progress reports issued in the years following the initial report until the Commission's recommendations have been enacted or its concerns have been addressed.

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